

**U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RECORD OF DECISION
WEST ROUNDUP FEDERAL COAL LEASE APPLICATION
WYW151134
CAMPBELL COUNTY, WYOMING**

INTRODUCTION

Triton Coal Company, LLC filed an application with the Bureau of Land Management (BLM) to lease a tract of Federal coal as a maintenance tract for the North Rochelle Mine on July 28, 2000. The tract is referred to as the West Roundup Lease By Application (LBA) Tract. A maintenance tract is a tract of Federal coal that is adjacent to and can be mined by an existing coal mine. The North Rochelle Mine is located in southern Campbell County, approximately ten miles southeast of Wright, Wyoming (Attachment 1-Figure 1). The West Roundup LBA Tract is adjacent to the North Rochelle Mine, which is operated by Triton Coal Company, LLC, a wholly owned subsidiary of Vulcan Intermediary, LLC. In May 2003, Arch Coal, Inc. announced it was purchasing Vulcan Coal Holdings, LLC, including the North Rochelle Mine. A subsidiary of Arch Coal, Inc. operates the Black Thunder Mine, which is north of and contiguous to the North-Rochelle Mine and the West Roundup LBA Tract (Attachment 1-Figure 1). That purchase has not been completed to date.

The West Roundup LBA Tract was assigned case file number WYW151134. As applied for, it includes approximately 1,870.638 acres and Triton Coal Company, LLC estimates that the tract as applied for includes approximately 192.6 million tons of in-place Federal coal reserves in Campbell County, Wyoming (Attachment 1-Figure 2a). The tract was applied for under the Code of Federal Regulations (CFR) at 43 CFR Subpart 3425.

BACKGROUND

The Lease By Application Process

Triton Coal Company, LLC has a permit approved by the Wyoming Department of Environmental Quality, Land Quality Division (WDEQ/LQD) and a Mineral Leasing Act (MLA) mining plan approved by the Secretary of the Interior to conduct surface coal mining operations on their existing North Rochelle Mine leases. The mine also has an air quality permit approved by the Wyoming Department of Environmental Quality, Air Quality Division (WDEQ/AQD), which allows up to 35 million tons of coal per year to be mined through the year 2018.

Under the LBA process, maintenance tracts are nominated for leasing by companies with adjacent existing mines. Triton Coal Company, LLC has previously leased Federal coal adjacent to the North Rochelle Mine using the LBA process. In 1998 they were issued a maintenance

lease for the North Rochelle LBA Tract. To process an LBA the BLM evaluates the quantity, quality, maximum economic recovery (MER) and fair market value (FMV) of the Federal coal and evaluates the environmental impacts of leasing and mining the Federal coal. A Federal coal lease provides the lessee the mining rights but does not authorize mining. The impacts of mining are considered in the environmental analysis because mining is a logical consequence of issuing a maintenance lease. The *South Powder River Basin Coal EIS* evaluates the impact of leasing five tracts of Federal coal, including the West Roundup LBA Tract, in the Powder River Basin, Wyoming (Attachment 1-Figure 1). The Office of Surface Mining Reclamation and Enforcement (OSM) is a cooperating agency on the EIS because OSM is the Federal agency which administers programs that regulate surface coal mining in accordance with the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The Forest Service is a cooperating agency on the EIS because three of five Federal coal tracts considered in the South Powder River Basin Coal EIS include portions of the Thunder Basin National Grassland administered by the Forest Service. The West Roundup LBA Tract includes National Forest System (NFS) lands administered by the Forest Service (see Figure 3-13 in the *South Powder River Basin Coal EIS*).

By law and regulation the LBA process is an open, public, and competitive leasing process; bidding is not restricted to the applicant. Triton Coal Company, LLC applied for the West Roundup LBA Tract, which is contiguous to and could be mined as a maintenance tract for the North Rochelle Mine. In the *South Powder River Basin Coal EIS*, the alternatives analyzed in detail assume that the applicant will be the successful bidder if a competitive sale is held. As shown in Figure 1 (Attachment 1), the West Roundup LBA Tract is also contiguous with the Black Thunder Mine, which could potentially also mine the tract as a maintenance lease.

Recent Coal Leasing Activity in the Wyoming Powder River Basin

Since decertification of the Powder River Federal Coal Region in 1990, eleven Federal coal leases in Campbell and Converse Counties, Wyoming, have been issued after competitive sealed-bid sales using the LBA process. These leases include approximately 27,458 acres and 3.178 billion tons of mineable coal (see Table 1-1, *South Powder River Basin Coal EIS*). Ten of the new leases were issued to the following existing mines for the purpose of extending operations at those mines: Jacobs Ranch Mine (2), Black Thunder Mine (2), North Antelope/Rochelle Complex (2), Eagle Butte Mine (1), Antelope Mine (2), and North Rochelle Mine(1). In 1992 the West Rocky Butte Tract adjacent to the existing Rocky Butte lease was leased to the Northwestern Resources Company who planned to start a new mine. Caballo Coal Company, a subsidiary of Peabody Holding Company, Inc. and operator of the adjacent Caballo Mine, now holds both of the Rocky Butte leases.

In 1974, 1979, and 1981 the BLM prepared three regional EISs analyzing the impacts of surface coal mining in the Wyoming portion of the Powder River Basin. In 1984 a fourth regional EIS was prepared and issued in draft form, but it was not made final and the proposed actions were not implemented. All of the mines in operation in the Wyoming portion of the Powder River

Basin, including the North Rochelle Mine, were included in the 1981 and 1984 EIS analyses. To evaluate the impacts of leasing tracts of Federal coal in the Powder River Basin in Wyoming the BLM has prepared six environmental assessments (EAs) and seven EISs since the 1990 decertification of the Powder River Federal Coal Production Region. Most recently, the *Final South Powder River Basin Coal EIS* was mailed to the public in December 2003 and the *Final West Hay Creek Coal Lease Application EIS* was mailed to the public in June 2004.

Pending Coal Leasing Applications and Other Proposed Projects In the Wyoming Powder River Basin

There are eight pending maintenance lease applications in the Wyoming portion of the Powder River Basin including the West Roundup LBA Tract. The pending lease applications currently include approximately 1.98 billion tons of Federal in-place coal. In addition to the West Roundup LBA Tract, the pending applications and associated mines are: NARO North and NARO South, North Antelope/Rochelle Complex; Little Thunder, Black Thunder Mine; West Hay Creek, Buckskin Mine; West Antelope, Antelope Mine; Maysdorf, Cordero-Rojo Mine; and West Extension, Eagle Butte Mine.

The Jacobs Ranch Mine, Black Thunder Mine, North Rochelle Mine, North Antelope/Rochelle Complex, and Antelope Mine form an almost contiguous group of mines located in Campbell and Converse Counties, east and southeast of Wright, Wyoming (Attachment 1-Figure 1). The five tracts of Federal coal evaluated in the *South Powder River Basin Coal EIS*, including the West Roundup LBA Tract, are associated with this group of mines.

In addition to the ongoing coal leasing and mining, oil and gas leasing and development are occurring in this area. Both conventional and coal bed natural gas (CBNG) wells have been drilled around and within this group of mines. Conventional and CBNG resources are currently being recovered from areas held in Federal, State, and private oil and gas leases in this area, and additional CBNG drilling and development is currently proposed. Federal oil and gas lease ownership in the West Roundup LBA Tract is described in Figure 3-17 and Table 3-12 of both the draft and final EIS documents. Table 3-12 was updated between the preparation of the draft and final EIS documents to reflect changes in lease ownership. Federal oil and gas lessees and private interests identified by Triton Coal Company, LLC were included on the mailing list for the *South Powder River Basin Coal EIS*; they were notified of the date and time of the scoping meeting that was held in October of 2001 and the public hearing that was held in March 2003; they received copies of the Draft and Final EIS documents. BLM received comment letters from an attorney representing one CBNG operator and from one conventional oil and gas operator expressing concerns about the impact that the proposal to lease the Federal coal in the West Roundup LBA Tract would have on existing oil and gas lease rights in the West Roundup LBA Tract. These letters and BLM's responses to these letters are included in Appendix M of the *Final South Powder River Basin Coal EIS* and in Attachment 2.

Section 4.1.2.1 of the Final EIS includes a summary of an analysis of CBNG resources in the

Federal coal tracts evaluated in the *South Powder River Basin Coal EIS*, prepared by the BLM Wyoming Reservoir Management Group (WSO-RMG). The WSO-RMG estimated that, as of 2000, the coal in the West Roundup LBA Tract had an average content of nine standard cubic feet of CBNG per ton of coal and the estimated recoverable CBNG resource in the tract at that time was approximately 1.56 billion cubic feet. CBNG development on Federal surface lands included in the West Roundup LBA Tract was delayed while the Forest Service completed an EA (the *Big Porcupine Coal Bed Methane Project Environmental Assessment*) evaluating the impacts of proposed CBNG development in this area. The Decision Notice for this EA was signed by the Medicine Bow-Routt National Forests and Thunder Basin National Grassland Forest Supervisor on April 23, 2004. There are currently 4 producing CBNG wells located on private lands in the West Roundup LBA Tract and there are approved permits to drill two CBNG wells on NFS lands in the tract under the Preferred Alternative.

There are currently two producing conventional oil and gas wells on the West Roundup LBA Tract, and six conventional wells are reported as plugged and abandoned. CBNG and conventional well information is based on the Wyoming Oil and Gas Conservation Commission database as of July 2004.

There are several mechanisms that can be used to facilitate recovery of the conventional oil and gas and CBNG resources prior to mining if the Federal coal in the tract is leased now:

- BLM will attach a Multiple Mineral Development stipulation to the Federal coal lease which states that BLM has the authority to withhold approval of coal mining operations that would interfere with the development of mineral leases issued prior to the coal lease [see Attachment 3(c)].
- Conventional oil and gas wells must be abandoned while mining and reclamation operations are in progress but could be recompleted or redrilled following mining if the value of the remaining reserves would justify the expense of reestablishing production.
- BLM has a policy in place on CBNG-coal conflicts (BLM Instruction Memorandum No. 2003-253), which directs BLM decision-makers to optimize the recovery of both resources and ensure that the public receives a reasonable return. This memorandum offers royalty incentives to CBNG operators to accelerate production in order to recover the natural gas while simultaneously allowing uninterrupted coal mining operations. In addition, this memorandum also states that it is the policy of the BLM to encourage oil and gas and coal companies to resolve conflicts between themselves; and when requested, the BLM will assist in facilitating agreements between the companies.
- CBM is currently being produced by several wells on the West Roundup LBA Tract and several others are proposed for drilling. Mining of the West Roundup LBA Tract cannot occur until the coal lessee has a permit to mine the tract approved by the Wyoming Department of Environmental Quality and a MLA mining plan approved by the Secretary

of the Interior. Before the MLA mining plan can be approved, BLM must approve the Resource Recovery and Protection Plan for mining the tract. Prior to approving the Resource Recovery and Protection Plan, BLM can review the status of CBNG and conventional oil and gas development on the tract and the mining sequence proposed by the coal lessee. The permit approval process generally takes the coal lessee several years, during which time CBNG resources can continue to be recovered.

- Prior to mining the Federal coal, the coal lessee can negotiate an agreement with owners and operators of existing oil and gas facilities on the tract, including owners and operators of oil and gas well and pipeline facilities, regarding removal of those facilities prior to mining.

Other proposed developments in the Wyoming Powder River Basin that have advanced to the planning and permitting stages and that could be completed in the foreseeable future include: a power plant (Two Elk Power Plant), proposed by the North American Power Group (NAPG), which would be located east of the Black Thunder Mine and a railroad line from the Powder River Basin to Minnesota proposed by Dakota, Minnesota, and Eastern Railroad (DM&E). Construction of the Two Elk Power Plant has been delayed while NAPG obtains funding and the required permits for construction and operation. The Surface Transportation Board (STB) released the Final EIS for the proposed DM&E Powder River Basin Expansion Project on November 19, 2001. On January 30, 2002, the STB issued a Record of Decision for the DM&E project. As a result of lawsuits that were filed against the project, several issues have been remanded to the STB for further review and action. Prior to commencing any construction activities, DM&E must obtain permits or approvals from other Federal agencies including the BLM, the Forest Service and the Army Corps of Engineers.

The proposed power plant and the DM&E railroad line and the ongoing and proposed oil and gas operations (including CBNG) are separate projects being developed independently of the issuance of a maintenance coal lease for the West Roundup LBA Tract. If these other projects are developed as proposed and the West Roundup LBA Tract is leased and mined as proposed, there would be some overlap in the impacts of constructing and operating those projects and the environmental impacts of mining the tract. The cumulative effects of all of these projects (the Two Elk Power Plant, the DM&E railroad, the ongoing and proposed oil and gas development and production, and the coal mining that would follow the leasing of West Roundup LBA Tract and the other LBA tracts) are described in the *South Powder River Basin Coal EIS*. They were also described in the *Final Environmental Impact Statement and Proposed Plan Amendment for the Powder River Basin Oil and Gas Project* (BLM-WY 2003).

DECISION

The decision is to select Alternative 3 as described in Section 2.4.4 of the *South Powder River Basin Coal EIS*. Under Alternative 3, a lease for the West Roundup LBA Tract, Federal coal tract WYW151134, as modified by the BLM, would be issued to the successful qualified high bidder, if the highest bid received at a competitive lease sale meets or exceeds the FMV as determined by the BLM and if all other leasing requirements are met. The competitive lease sale will be held under the regulations found at 43 CFR Subpart 3422, Lease Sales. As described under Alternative 3 in the EIS, Federal coal tract WYW151134 includes 2,812.51 acres more or less and Triton Coal Company, LLC estimates that the modified tract contains approximately 319.4 million tons of in-place Federal coal resources in Campbell County, Wyoming.

This decision is consistent with the *Approved Resource Management Plan for Public Lands Administered by the BLM Buffalo Field Office* (2001, amended 2003). I have incorporated by reference in this decision standard coal lease stipulations addressing compliance with basic requirements of the environmental statutes and have attached BLM special stipulations (Attachment 3).

Under Alternative 3, the West Roundup LBA Tract includes NFS lands in the Thunder Basin National Grassland administered by the Forest Service. Consequently, the Forest Service must consent and prescribe terms and conditions in order for the West Roundup LBA Tract to be leased. The Forest Service provided consent to lease the lands with NFS surface in the West Roundup LBA Tract in a decision signed on July 7, 2004. The decision is conditioned on application of the Notice for Lands of the National Forest System under Jurisdiction of the Department of Agriculture (FS Notice) on the West Roundup Federal Coal Lease Tract (WYW151134) when the tract is leased (Attachment 3).

The U.S. Fish and Wildlife Service has provided written concurrence for leasing the West Roundup LBA Tract pursuant to section 7(a)(2) of the Endangered Species Act of 1973, as amended (Attachment 4).

In the event that the bid or bids submitted at the competitive lease sale of the West Roundup LBA Tract do not meet or exceed the FMV as determined by the BLM, the BLM may schedule a follow-up sale. If needed, the BLM will consider additional re-offers.

Under the Proposed Action, it is assumed that the applicant will be the successful bidder on the West Roundup LBA Tract and that the coal will be mined, processed and sold by the North Rochelle Mine. If the tract is mined, it would be environmentally preferable to mine and reclaim the West Roundup LBA Tract as a maintenance lease in a logical sequence with the ongoing mining and reclamation operations at an adjacent existing mine. This would be consistent with the analysis of the impacts described in the EIS.

REASONS FOR THE DECISION

The reasons for selecting the Proposed Action are as follows:

- The decision to offer 2,812.51 acres containing approximately 319.4 million tons of in-place Federal coal reserves, in response to the coal lease application received July 28, 2000, is in conformance with the BLM land use plan covering this area.
- The decision to offer 2,812.51 acres containing approximately 319.4 million tons of in-place Federal coal reserves, in response to the coal lease application received July 28, 2000, is consistent with and in compliance with the management direction for the 8.4 Mineral Production and Development management area, described in the 2002 Land and Resource Management Plan for the Thunder Basin National Grassland.
- The *South Powder River Basin Coal EIS* was prepared in response to applications BLM received to lease five tracts of Federal coal, including the West Roundup LBA Tract, to four existing mines in Wyoming. The environmental impacts of this decision were fully disclosed in that EIS. Public comment was addressed in the Final EIS.
- The purpose of the Triton Coal Company, LLC application for the West Roundup LBA Tract was to allow them access to a continuing supply of low sulphur compliance coal that would be sold to power plants for the purpose of generating power. Continued leasing of the low sulphur Powder River Basin coal enables coal-fired power plants to meet Clean Air Act requirements without constructing new power plants, revamping existing plants, or switching to other alternative fuels. Generally, the costs of constructing new power plants, retrofitting or revamping existing plants, or re-tooling and switching to other alternative fuels effect additional costs to energy customers.
- The LBA tract configuration under Alternative 3 provides for maximum economic recovery of the coal resource.
- When an application to lease Federal coal is submitted, the BLM must decide whether to process the application and hold a competitive sealed-bid lease sale for the coal or reject the application and not offer the coal for lease. Regardless of the decision, the BLM must notify the applicant in a timely fashion of its decision. The EIS provides the BLM with the information needed to meets its obligations to respond to an application in a timely fashion.
- A primary goal of the National Energy Policy is to add energy supplies from diverse sources including domestic oil, gas, and coal in addition to hydropower and nuclear power. The BLM recognizes that the continued extraction of coal is essential to meet the nation's future energy needs. As a result, private development of Federal coal reserves is

integral to the BLM coal leasing programs under the authorities of the Mineral Leasing Act of 1920, the Federal Land Policy and Management Act of 1976 and the Federal Coal Leasing Amendments Act of 1976.

- The BLM coal leasing program encourages the development of domestic oil, gas, and coal reserves and reduction of the United States' dependence on foreign sources of energy. The leasing and subsequent mining of Federal coal reserves provide the United States, the State of Wyoming, and affected local counties with income in the form of lease bonus payments, lease royalty payments, and tax payments; production of Federal coal also provides the public with a supply of cost-efficient, low sulphur coal for power generation. The alternative selected meets the goals of the National Energy Policy and achieves the objectives of the Federal coal leasing programs managed by the BLM. It is strongly supported by the Wyoming Governor and other State and local officials.

Further Responses Regarding Coal Bed Natural Gas Resources

Although BLM responded in both the Final EIS and in separate letters to comments it received, in this Record of Decision BLM wishes to further address certain comments from coal bed natural gas (CBNG) interests.

While awaiting Forest Service approval of the Big Porcupine EA and applications to drill CBNG wells, one CBNG lessee filed a series of comments with BLM expressing concern that BLM issuance of a lease for the West Roundup LBA Tract would interfere with its economic interest in the CBNG resources in and around the West Roundup LBA Tract and destroy its senior property rights. It alleged that surface coal mining will destroy the reservoir in which the CBNG resides, directly and indirectly impact CBNG production from numerous well sites, and cause irretrievable venting, waste, and drainage of the CBNG reserves, both within and around the LBA tract.

The CBNG lessee also asserts that BLM cannot issue a coal lease for the West Roundup LBA Tract at this time because lease issuance would impermissibly cause unavoidable and significant adverse impacts to the interests of the senior oil and gas lessee. It asserts further that lease issuance would be inconsistent with the BLM's governing land use plan, the Buffalo Resource Management Plan (the "Buffalo RMP"), under which BLM must defer coal leasing in producing oil and gas fields unless or until coal development will not interfere with the economic recovery of oil and gas resources.

The CBNG lessee also disputes the BLM Final EIS analysis and assumptions showing that coal mining will not occur for a number of years and that CBNG resources can be recovered during that period, asserting on the one hand that delays in coal mining approvals are not inevitable, and, on the other hand, that delays in the then pending Big Porcupine CBNG application will delay CBNG recovery.

BLM has carefully considered the concerns and objections raised by the CBNG lessee. BLM appreciates these concerns, but rejects the objections to lease issuance. BLM concludes that issuance of a coal lease for the West Roundup LBA Tract is legally permissible and will not cause the dire consequences asserted by the CBNG lessee.

A number of the CBNG lessee's concerns were addressed in BLM's May 12, 2004, letter to James Aronstein, counsel for the CBNG lessee, (See Attachment 2) and in the Final EIS. In particular, the May 12 letter discusses drainage, the effects of mining on the reservoir in which the CBNG resides, and the impacts on CBNG production. (See pp. 2, 3 and 5 of the May 12 letter, which also references pertinent portions of the Final EIS.)

Contrary to the CBNG lessee's assertions, BLM's rules, governing land use plan, and lease terms clearly authorize it to issue coal leases in areas containing oil and gas leases. BLM's coal regulations at 43 CFR 3400.1(b) expressly recognize that mineral leases for other minerals do not preclude the issuance of federal coal leases on the same lands, with suitable stipulations for simultaneous operations. The CBNG lessee, in its October 8, 2001, submittal to BLM, acknowledges that the oil and gas leases in question authorize the disposition of the federal coal on the same land as the oil and gas leases, as long as such disposition will not unreasonably interfere with operations under the oil and gas leases. The Buffalo RMP allows coal lease issuance if BLM makes a case-specific determination that issuance of the coal lease will not interfere with the economic recovery of the oil and gas resources.

BLM has determined that that issuance of a coal lease for the West Roundup LBA Tract specified in the preferred alternative will not interfere with the economic recovery of oil and gas resources on that tract. As mentioned earlier, BLM intends to attach a Multiple Mineral Development stipulation to the Federal coal lease which states that BLM has the authority to withhold approval of coal mining operations that would interfere with the development of mineral leases issued prior to the coal lease. Thus, when BLM faces the decision whether to approve the resource recovery and protection plan (R2P2) and the Department decides whether to approve the Mineral Leasing Act (MLA) mining plan, BLM will have the necessary authority to prevent unreasonable interference with the rights of senior oil and gas lessees. If the CBNG lessee disagrees with these subsequent decisions, BLM approval of an R2P2 is appealable to the Interior Board of Land Appeals, and a Departmental approval of a mining plan is appealable to a Federal District Court. Thus, issuance of a coal lease will have no immediate adverse effects on the rights of senior lessees.

Although the CBNG lessee questions this, a few years will necessarily pass before coal mining operations can be authorized on the West Roundup LBA Tract, during which time the CBNG lessees can conduct operations under their leases. As BLM stated in its May 12, 2004, letter, coal mining companies are required to get approval of a permit to conduct coal mining operations by the State of Wyoming and approval of a MLA mining plan by the Assistant Secretary of the Interior before conducting any surface coal mining operations on any leases they acquire (FEIS p. 1-19). These regulatory requirements involve baseline data collection, review

of and concurrence with a detailed mining and reclamation plan by multiple agencies, a technical review by the WDEQ, and opportunities for public review and comment. These activities will take a number of years.

Because the Forest Service approved the Big Porcupine environmental assessment on April 23, 2004, and legal challenges to that approval have been resolved, it is quite likely that a substantial amount of the CBNG resources will be recovered before surface coal mining operations approach the CBNG resources on the West Roundup LBA Tract. Any conclusion now that issuance of a Federal coal lease for the West Roundup LBA Tract will interfere with the recovery of CBNG reserves on senior oil and gas leases disregards what will happen on those leases before coal mining is actually authorized and begins. Thus, such a conclusion would be speculative and premature.

Moreover, because of concerns raised both by the coal industry and CBNG operators, BLM developed a policy to ameliorate conflicts between CBNG and surface coal mine development in the Powder River Basin. The goals of this policy, set forth in BLM Instruction Memorandum No. 2003-253, dated August 21, 2003, are to optimize the recovery of both resources in an endeavor to secure the maximum return to the public in revenue and energy production, prevent avoidable waste of the public's resources using existing statutes, regulations, and lease terms, honor the rights of each lessee, subject to the terms of the lease and sound principles of resource conservation, protect public health and safety, and mitigate environmental impacts. As one means of achieving these goals, BLM establishes a Conflict Administration Zone (CAZ) around each active coal mine or LBA area. CBNG operators within the CAZ are to be notified about near-future mining activities, BLM's authority to require proper and timely development of leased resources, and the potential availability of incentives such as a royalty rate reduction to encourage development. A 50 percent royalty rate reduction may be offered to oil and gas lessees if those lessees agree to expedite CBNG development and to abandon wells and facilities at BLM's request prior to the arrival of mining operations in the area of the wells.

PUBLIC INVOLVEMENT

On September 12, 2000, the BLM published notice of the receipt of this lease application in the *Federal Register*. Copies of this notice were sent to voting and non-voting members of the Powder River Regional Coal Team (PRRCT), including the governors of Wyoming and Montana, the Northern Cheyenne Tribe, the Crow Tribe, Forest Service, OSM, U.S. Fish & Wildlife Service, U.S. National Park Service, U.S. Geological Survey, and others.

On October 25, 2000, the PRRCT reviewed coal lease application WYW151134 at a public meeting in Cheyenne, Wyoming. The PRRCT recommended that the BLM process the application. The BLM published its Notice of Intent to Prepare an EIS and a Notice of Scoping in the *Federal Register* on October 3, 2001, and in the *Gillette News-Record* on September 25, 2001, and October 2, 2001. Scoping notices were mailed to Federal, State and local government agencies, conservation groups, commodity groups, and individuals who could be impacted by this lease application. The

mailing list was jointly developed by BLM, Forest Service, and the applicants, including the Triton Coal Company, LLC, for the five LBA tracts considered in the *South Powder River Basin Coal EIS* analysis. On October 10, 2001, a public scoping meeting was held in Gillette, Wyoming.

The *Draft South Powder River Basin Coal EIS* was mailed to the public and other interested parties, in late January 2003. On February 7, 2003, the Environmental Protection Agency (EPA) published its Notice of Availability of the Draft EIS in the *Federal Register*. BLM published a Notice of Availability and Notice of Public Hearing in the *Federal Register* on February 20, 2003, and in the *Gillette News-Record* and *Douglas Budget* on February 5 and February 12, 2003. To solicit public comment on the Draft EIS, the proposed lease sale, and the FMV and MER of the Federal coal included in the five tracts under consideration, a formal public hearing was held on March 4, 2003, in Gillette, Wyoming. With the publication of the EPA's Notice of Availability in the *Federal Register*, the 60-day review and comment period on the Draft EIS started on February 7, 2003, and ended on April 11, 2003. The Final EIS was mailed to the public and other interested parties in December 2003. The BLM and EPA each published a Notice of Availability of the Final EIS in the *Federal Register* on December 24, 2003.

During the EIS scoping period the BLM received 12 written comments and one oral comment. Twelve written comments were received on the Draft EIS. Four parties commented at the March 4, 2003, public hearing. Twenty-one written comments were received on the Final EIS. The comments made on the Draft EIS with BLM responses are included in Appendix M of the Final EIS, the comments received on the Final EIS are summarized in Attachment 5. Attachment 2 includes written comments received on the Final EIS that directly reference the West Roundup LBA Tract and BLM responses to those comments. The written comments and the transcript of the formal hearing are on file at the BLM Casper Field Office and BLM Wyoming State Office, Cheyenne, Wyoming. All comments that were received during the EIS process were considered in the preparation of both the Draft and Final EISs, and in this Record of Decision.

ALTERNATIVES ANALYZED IN DETAIL

The EIS analyzes four alternatives for the West Roundup LBA Tract in detail: the Proposed Action, Alternative 1 (the No Action Alternative), and Alternatives 2 and 3. These alternatives are summarized below. A full description of each of the alternatives analyzed in detail may be found in Chapter 2 of the EIS.

Proposed Action: Hold a Competitive Sale of Federal Coal Lands as Applied For

The lands that were applied for in the West Roundup LBA Tract would have been offered for lease at a competitive sale. As applied for, the tract consists of two tracts separated by the North Rochelle Mine railroad spur and facilities and a county road (Reno Road) and includes approximately 1,870.638 acres, more or less (Attachment 1-Figure 2a). Triton Coal Company, LLC estimates that it includes approximately 192.6 million tons of in-place Federal coal (see Attachment 1-Figures 2a and b) and that approximately 173.3 million tons or 90 percent of that coal would be recoverable.

This alternative assumes that the applicant would be the successful bidder on the West Roundup LBA Tract and that the coal would be mined, processed and sold by the North Rochelle Mine.

Alternative 1: No Action Alternative

The application to lease the Federal coal included in the West Roundup LBA Tract would be rejected and the tract would not be offered for lease at this time. Currently permitted mining activity at the adjacent North Rochelle Mine and Black Thunder Mine will continue, with or without leasing the West Roundup LBA Tract, and portions of the tract adjacent to the existing mines will be disturbed to recover all of the coal in the existing leases. Assuming that this tract will never be leased and coal removal and the associated disturbance will never occur, this alternative is the environmentally preferable alternative. However, selection of this alternative would not preclude future applications to lease all or part of the Federal coal included in this tract.

Alternative 2: Hold a Competitive Sale for a Tract

As Modified by BLM to Reduce the Potential for Bypass of Adjacent Unleased Federal Coal

Under Alternative 2, the West Roundup LBA Tract, as modified by BLM would have been offered for lease at a competitive sale. The size of the tract would have been increased to include the area between the two tracts as applied for, which is occupied by the North Rochelle Mine railroad spur and facilities and a county road (Reno Road) (Attachment 1-Figure 2a). Under the Alternative 2 reconfiguration, the West Roundup LBA Tract includes approximately 2,652.69 acres. Triton Coal Company, LLC estimates that this tract contains approximately 257 million tons of in-place coal, and that 90 percent, or about 231.3 million tons, of that coal would be recoverable. As discussed in Section 1.4 of the EIS, Forest Service has determined that lands under a Forest Service special use permit for ancillary facilities at the North Rochelle Mine are unsuitable for mining under Unsuitability Criterion 2. The area that would be added under this alternative is included in the Forest Service special use permit, but it may be possible to recover portions of the coal reserves in this area when the rest of the tract is mined, if it is leased at this time.

Alternative 3 (Selected Alternative): Hold a Competitive Sale for a Tract

As Modified by BLM to Increase Potential Competitive Interest In and Reduce the Potential for Bypass of Adjacent Unleased Federal Coal

In evaluating the West Roundup LBA Tract, BLM identified a study area, shown in Attachment 1-Figure 2a and identified as “area added under Alternative 3,” which includes the area added under Alternative 2 plus additional leased Federal coal adjacent to the applied-for tract. Under the selected alternative, BLM is adding a portion of the study area to the West Roundup LBA Tract (Attachment 1-Figure 2-b). With its boundaries amended, the West Roundup LBA Tract, as modified by BLM will be offered for lease at a competitive sale. By amending the boundaries, the BLM is adding about 941.872 acres to the West Roundup LBA Tract as applied for (See Attachment 1-Figure 2b and Table 1).

Table 1: Description of lands to be offered for competitive sale under the Selected Alternative

T.42N., R.70W., 6th P.M., Campbell County, Wyoming

- Section 4: Lots 17 and 18;
- Section 5: Lots 17 through 20;
- Section 6: Lots 8 through 23;
- Section 7: Lots 5 through 12, **13, and 14**;
- Section 8: Lots **1 through 12**;
- Section 9: Lots **1 through 8 and 11 through 14**;

T.42N., R.71W., 6th P.M., Campbell County, Wyoming

- Section 1: Lots 5, 6, 11 through 14, 19, and 20;

T.43N., R.70W., 6th P.M., Campbell County, Wyoming

- Section 31: Lots 13 through 20.

The total surface included in the tract as modified is 2,812.51 acres more or less. Triton Coal Company, LLC estimates that it contains approximately 319.4 million tons of in-place coal. Under this Alternative, the West Roundup LBA Tract includes NFS lands that are part of the Thunder Basin National Grasslands, which are shown in Figure 3-13 in the Final EIS and in bold in Table 1.

The modified tract includes the area between the two tracts as applied for, which is occupied by the North Rochelle Mine railroad spur and facilities and a county road (Reno Road) (Attachment 1-Figure 2b). As discussed above under Alternative 2 and in Section 1.4 of the Final EIS, the area between the two tracts as applied for is included in a Forest Service special use permit, and the Forest Service has determined that the coal inside the special use permit area is unsuitable for mining under Unsuitability Criterion 2. Although these lands have been determined to be unsuitable for mining, it may be possible to recover portions of the Federal coal adjacent to the special use permit when the rest of the tract is mined. Additional coal could be recovered if it becomes economically feasible to move the mine facilities in the future. A stipulation stating that no mining activity may be conducted in the portion of the lease within the area of the Forest Service special use permit will be attached if a lease is issued for this tract (Attachment 3).

The modified tract also includes additional Federal coal adjacent to the tract as applied for in Section 9, T. 42 N., R. 70 W. and Section 1, T. 42 N., R. 71 W (see Attachment 1-Figure 2b). BLM is adding this acreage to the tract in order to maintain or increase potential competitive interest in the Federal coal in this area because the coal that is being added could be more logically and efficiently mined if it leased at this time rather than in the future.

Triton Coal Company, LLC estimates that about 90 percent, or 287.5 million tons, of the coal in the modified tract would be recoverable, assuming that the coal underlying the railroad spur and

facilities can be economically recovered at some time in the future. BLM's estimate of the mineable tons of Federal coal in the tract will be included in the sale notice for the tract.

Alternative 3 for the West Roundup LBA Tract assumes that Triton Coal Company, LLC would be the successful bidder on the tract if a lease sale is held and that the tract would be mined as a maintenance lease for the North Rochelle Mine. The tract is also contiguous to the Black Thunder Mine to the north (Attachment 1-Figure 1), and could potentially be mined as a maintenance lease for that mine.

ALTERNATIVES CONSIDERED BUT NOT ANALYZED IN DETAIL

Further descriptions of these alternatives may be found in Chapter 2 of the Final EIS.

Alternative 4: As under the Proposed Action, BLM would hold a competitive coal lease sale for the tract as applied for and then issue a lease to the successful bidder. This alternative assumed that the applicant would not be the successful bidder, and that the Federal coal would be developed as a new stand-alone mine. BLM estimates that 500 to 600 million tons of coal would be needed to attract a buyer interested in constructing a new mine in the Wyoming Powder River Basin. This alternative was considered and eliminated from detailed study because the current economics of mining in the Powder River Federal Coal Region appear to make construction of a new mine economically unfeasible on a tract of Federal coal of this size.

Alternative 5: The BLM would have postponed a sale of the West Roundup LBA Tract to potentially increase the benefits to the public if coal prices increase within the Powder River Basin or to allow recovery of additional CBNG resources in the tract prior to mining.

This alternative was not analyzed in detail because it would not produce significantly different impacts than other alternatives analyzed in detail. Royalty and tax payments are collected at the time the coal is sold. They increase as coal prices increase, which allows the United States to benefit if coal prices have increased by the time of mining. Conventional oil and gas production and distribution facilities on the tract would have to be removed prior to mining, but mining would not disturb any remaining conventional oil and gas resources within the tract. If there are economically recoverable conventional oil and gas resources remaining in the area of the tract, they could be recovered after the coal is mined and the tract is reclaimed. Recovery of CBNG resources on the tract is occurring and recovery of a substantial portion of those resources on the tract would be anticipated after lease issuance because, as discussed in the Background section above, express terms of the proposed lease will protect the right of the holder of the first mineral lease issued for the tract to recover any commercial quantities of CBNG. BLM has a policy in place on CBNG-coal conflicts, which will allow the agency to offer the oil and gas lessee royalty reductions as incentives to accelerate production prior to the commencement of surface coal mining on the tract. The environmental impacts of mining the Federal coal at a later time as part of an existing mine would be expected to be similar and about equal to the Proposed Action. If a new mine start is required to recover the coal in this tract, the environmental impacts would be

expected to be greater than if the tract is mined as an extension of an existing mine.

MITIGATION, COMPLIANCE AND MONITORING

If the West Roundup LBA Tract is leased, the lease will contain the standard coal lease stipulations. The attached BLM Special Stipulations (Attachment 3) regarding cultural resources, paleontological resources, threatened and endangered species, multiple mineral development of oil and gas or coal resources or both, resource recovery and protection, public land survey , and the Forest Service Special Use Permit for the North Rochelle Mine will be added to the coal lease. The attached Forest Service Notice (Attachment 3) regarding cultural and paleontological resources and endangered and threatened species will also be added to the coal lease.

After a Federal coal lease is issued, SMCRA gives the OSM authority to administer programs that regulate surface coal mining operations. The WDEQ regulates surface coal mining activities in Wyoming. If either the North Rochelle Mine or the Black Thunder Mine is the successful, qualified high bidder on Federal coal tract WYW151134, a permit revision must be approved by the WDEQ/LQD and a MLA mining plan revision must be approved by the Secretary of the Interior before the coal can be mined. The existing mitigation measures specific to the currently approved mine plan for the adjacent mine will be revised to include mitigation measures specific to mining WYW 151134 when the mining permit is amended.

If the successful, qualified high bidder does not operate an adjacent mine and proposes to construct and operate a new mine, then a new permit and a new mining plan must be prepared and approved before the coal can be mined. Before WYW151134 can be mined, mitigation measures and monitoring plans specific to a mining and reclamation plan must be attached to any revised existing or new mining and reclamation plan.

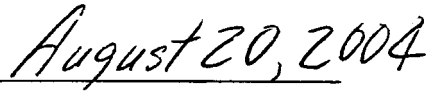
Prior to mining of the areas subject to the coal lease all practicable means to avoid or minimize environmental harm will be adopted as leasing stipulations or, as consistent with normal practices, can be expected to be adopted as conditions of the mining permit. To ensure that the revised plan is in compliance with the leasing stipulations, BLM has a responsibility to review the Resource Recovery and Protection Plan prior to approval of the mining plan. Before any mining of the West Roundup LBA Tract can begin, the Resource Recovery and Protection Plan must be approved by the BLM; the permit, or permit revision, must be approved by WDEQ/LQD; and the MLA mining plan, or plan revision, must be approved by the Assistant Secretary of the Interior.

RECOMMENDED ALTERNATIVE

I recommend that, after a competitive lease sale, Federal coal tract WYW151134 and its associated 2,812.51 acres more or less, be issued to the successful, qualified high bidder provided it is determined that the highest bid meets, or exceeds, the FMV of the tract as determined by the BLM and that all other leasing requirements are met. This is Alternative 3 with the modified tract configuration described in this record of decision. The competitive lease sale will be held in accordance with the requirements at 43 CFR Subpart 3422. The lease will be subject to the attached BLM special lease stipulations and Forest Service Notice (Attachment 3).



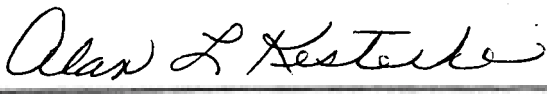
Assistant Field Manager for Solid Minerals
Casper Field Office



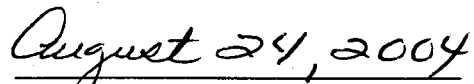
Date

APPROVAL

I agree with the recommendation of the Assistant Field Manager for Solid Minerals and I approve the decision to offer Federal coal tract WYW151134 for competitive lease sale.



BLM Wyoming State Director
ASSOCIATE

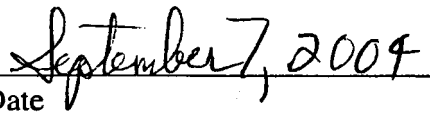


Date


Concur:



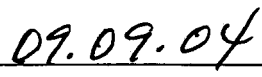
Director, BLM



Date



for Assistant Secretary
Land and Minerals Management, DOI



Date

ATTACHMENTS

1. Figures 1. and 2.
2. Comment letters that specifically reference the West Roundup LBA Tract and BLM responses to those comments
3. BLM Special Coal Lease Stipulations and Notice for Lands of the National Forest System under Jurisdiction of the Department of Agriculture on the West Roundup Federal Coal Lease Tract (WYW151134)
4. USFWS letter in response to BLM formal request for consultation under Endangered Species Act, Section 7.
5. Summary of comments received on the “South Powder River Basin Coal Final Environmental Impact Statement”

ATTACHMENT 1:

FIGURES 1 and 2

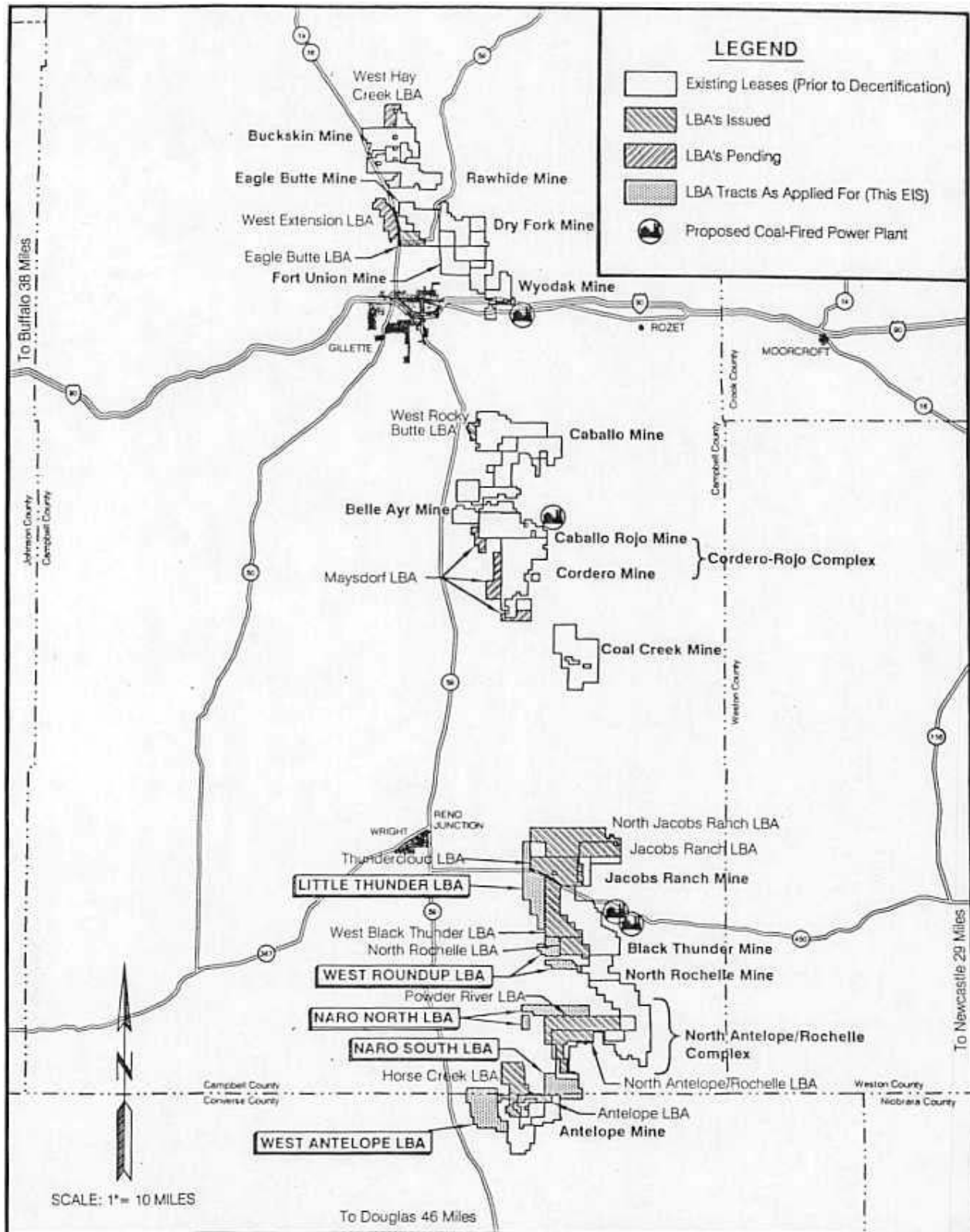


Figure 1. General Location Map with Federal Coal Leases and LBA Tracts.

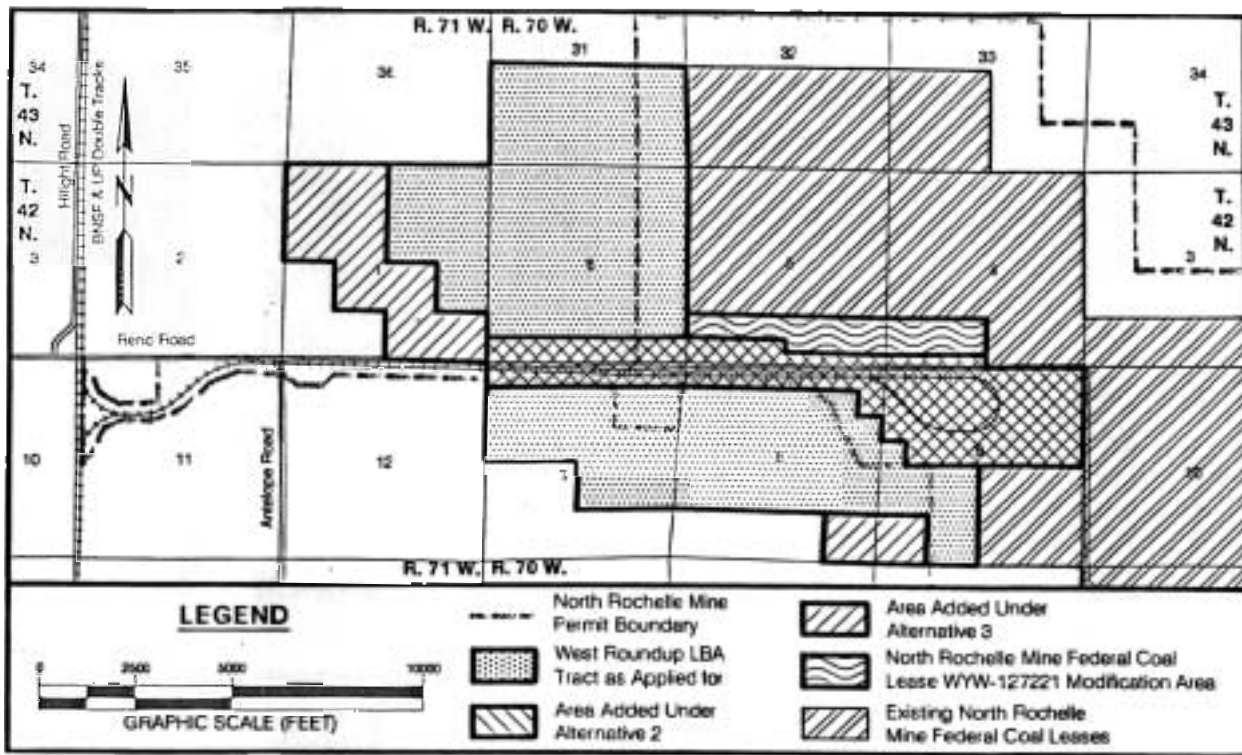


Figure 2a. West Roundup LBA Alternative Tract Configurations.

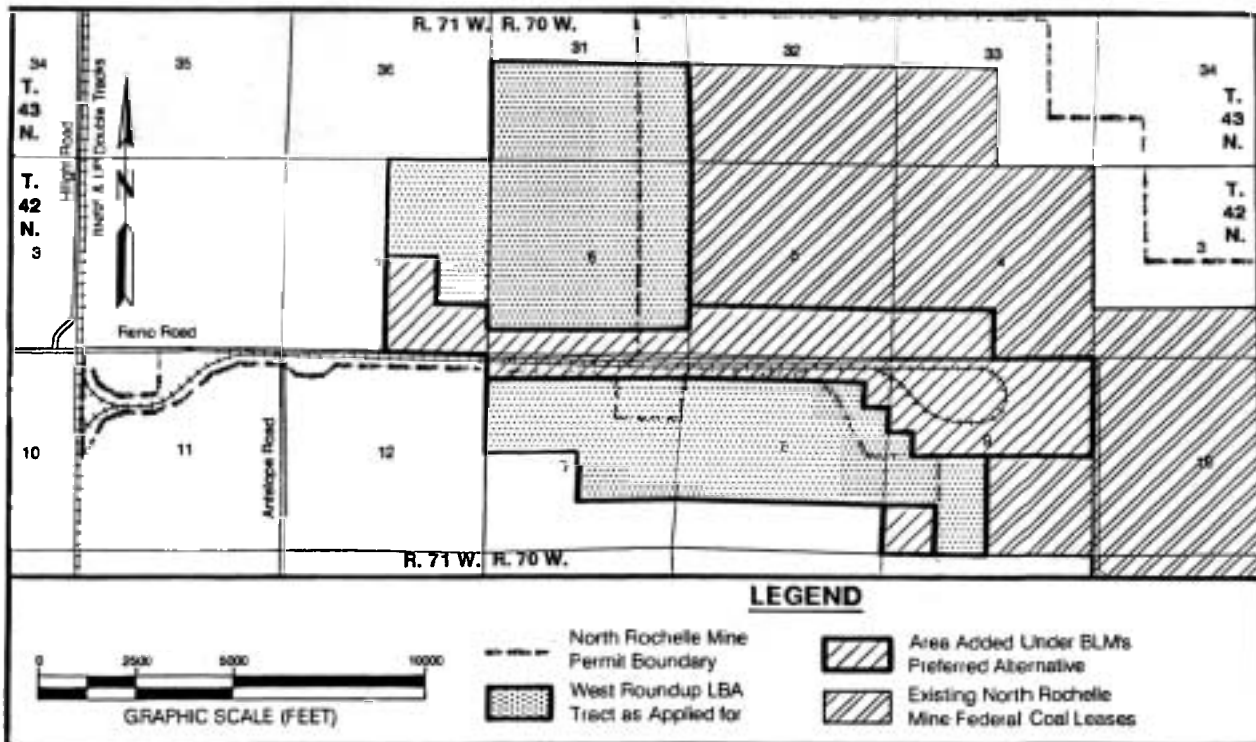


Figure 2b. West Roundup LBA Preferred Alternative Tract Configuration

ATTACHMENT 2:

**COMMENT LETTERS THAT
SPECIFICALLY REFERENCE
THE WEST ROUNDUP LBA TRACT
(WYW151134)
AND BLM RESPONSES**



M & K OIL COMPANY

P.O. Box 3470 • Gillette, Wyoming 82717-3470 • (307) 682-8047 • Fax (307) 686-6300

RECEIVED - BLM

JAN 23 2004

CASPER FIELD OFFICE

January 19, 2004

BLM
2987 Prospector Drive
Casper, WY 82604
Attn: Nancy Doelger

Dear Mrs. Doelger;

M&K Oil Company, Inc. (M&K) is the owner and operator of Henderson #1. This is a fee oil and gas well located in T42N, R70W, Section 7: SENW and falls within the boundary of the West Roundup LBA tract as proposed by Triton's North Rochelle Mine. This well has been producing since November of 1972 and continues to produce oil and gas in paying quantities from the Muddy formation.

As proposed, this LBA will necessitate the removal of the well and the gas sales line serving the well prior to coal being removed from the area. To date, there have been no negotiations between M&K and Triton to resolve this conflict.

M&K is using this comment opportunity to state that there is a direct conflict between the operation of the Henderson well and the proposed West Roundup LBA. As you know, surface coal mining operations are required to minimize disruption of services provided by facilities such as the Henderson well, unless otherwise approved by the owner (M&K). Therefore a "mine through" agreement approving disruption of our operations and services is required between M&K and the eventual lessee of this coal lease.

Thank you for this opportunity to comment on this lease.

Sincerely,

Jim McLeland, President
M&K Oil Company, Inc.



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Casper Field Office
2987 Prospector Drive
Casper, Wyoming 82604-2968

3425(LBA)
WYW151134
West Roundup

MAY 12 2004

M & K Oil Company
Attn: Jim McLeland
P.O. Box 3470
Gillette, WY 82717-3470

RE: January 19, 2004 Comments on the Final South Powder River Basin Coal
Environmental Impact Statement (EIS)

Dear Mr. McLeland:

We have reviewed the comments you provided related to your fee conventional oil and gas well, the Henderson #1, which is located on the West Roundup LBA Tract (WYW151134), applied for by Triton Coal Company LLC, operator of the North Rochelle surface coal mine. The EIS identifies the presence of the Henderson well and several other producing conventional oil and gas wells on the LBA Tract (Figure 3-17, page 3-65) and recognizes that optimal recovery of both coal and oil and gas resources requires negotiation and cooperation between the oil and gas lessees and the coal lessees (p. 4-82). These negotiations must take place before the Federal coal can be removed.

If you have any questions or would like to discuss your concerns further, please contact Nancy Doelger at (307) 261-7627.

Sincerely,

Assistant Field Manager, Solid Minerals

DUCKER, MONTGOMERY, LEWIS & ARONSTEIN, P.C.

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JAMES K. ARONSTEIN
E-mail: jaronstein@denverlaw.com

January 23, 2004

VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED.
FACSIMILE: (307) 261-7587 AND
EMAIL: casper_wymail@blm.gov

Bureau of Land Management
Casper Field Office
Attn: Nancy Doelger
2987 Prospector Drive
Casper, Wyoming 82604

Re: Final South Powder River Basin Coal Environmental Impact Statement

Gentlemen and Ms. Doelger:

This firm represents Bill Barrett Corporation (“BBC”). This letter is written in order to set forth certain comments with respect to the Final South Powder River Basin Coal Environmental Impact Statement (the “FEIS”), particularly insofar as the FEIS relates to Triton Coal Company LLC’s West Roundup LBA (WYW 151134) (the “West Roundup LBA”).

On behalf of BBC and by letter dated June 9, 2003 (the “2003 Letter”), we previously submitted comments with respect to the West Roundup LBA. The 2003 Letter enclosed and incorporated by reference extensive comments on the West Roundup LBA contained in a fifteen page letter to the BLM dated October 8, 2001 (the “2001 Letter”). The 2003 Letter and a brief response thereto was included in Appendix M to the FEIS. However, the 2001 Letter (which was appended to and incorporated into the 2003 Letter) was not included in the FEIS. Moreover, as further discussed below in this letter, the FEIS fails to address myriad and important issues raised in the 2001 Letter. The 2001 Letter and the 2003 Letter are appended hereto and incorporated herein by reference and the statements set forth therein constitute part of our comments on the FEIS, regardless of whether or not expressly reiterated in this letter.

Bureau of Land Management

Attn: Nancy Doelger

January 23, 2004

Page 2

BBC has an extensive CBM development program in and around the West Roundup LBA. Certain CBM wells in the program, which are not on lands administered by the United States Forest Service ("USFS"), have already been drilled. However, a significant portion of the CBM well sites in BBC's program are situated within the boundaries of the Thunder Basin National Grass Lands, which are administered by the USFS. The drilling of these wells awaits approval by the USFS of the Big Porcupine Environmental Assessment (the "EA"). BBC and its predecessor in interest (Independent Production Company) have been seeking approval of the EA since 2001. We understand that the EA has been submitted for approval and is currently in the comment period.

The 2001 Letter and the 2003 Letter explained that surface coal mining within the West Roundup LBA will destroy the reservoir in which the CBM resides and cause the irretrievable venting and waste of the CBM reserves, both within the LBA tract and for several miles around it. The CBM and the oil and gas lessee's vested senior property rights will be devastated. Surface coal mining within the West Roundup LBA will directly and indirectly impact the production of CBM from numerous well sites. Several well sites will be physically consumed by the proposed surface coal mining operations. The ability to produce CBM from well sites on adjoining lands will also be severely prejudiced by the loss of reservoir pressure and the drainage, migration and venting of CBM resulting from the mining of the LBA Tract.

Pursuant to the FEIS, the BLM has selected a preferred alternative for the West Roundup LBA Tract that significantly expands the area to be leased for coal mining [FEIS at 2-33 & 34, ES 9]. As a result, myriad additional CBM well sites will be directly and indirectly impacted. The FEIS does not adequately examine the additional number of CBM wells and the additional volume and value of CBM reserves that will be lost as a result of this expansion of the West Roundup LBA.

The 2001 Letter identifies and examines various legal authorities which clearly establish that, due to the impermissible, unavoidable and substantial adverse impacts to the senior oil and gas lessee, the West Roundup LBA Tract cannot validly be leased for surface coal mining at the present time. These authorities and the issues that they raise have not been adequately addressed in the FEIS.

For example, the 2001 Letter noted that, pursuant to applicable regulations of the BLM, coal leases cannot be sold unless such a sale is consistent with the governing BLM land use plan [2001 Letter at 10]. The 2001 Letter further noted that the BLM's land use plan covering the LBA Tract, the Buffalo Resource Management Plan issued in 1985 (the "1985 Buffalo RMP"), states that the BLM must "defer coal leasing in producing oil and gas fields unless or until coal

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development will not interfere with the economic recovery of the oil and gas resources..." The FEIS acknowledges that coal leasing decisions must be consistent with the governing land use plan [FEIS at 1-20] and further acknowledges the ongoing validity of the 1985 Buffalo RMP [FEIS at 1-23]. The FEIS also acknowledges that: (i) under the 1985 Buffalo RMP, coal leasing in producing oil and gas fields should be deferred until coal development will not interfere with economic recovery of the oil and gas resource [FEIS at 1-23]; (ii) CBM is currently being produced within the West Roundup LBA Tract [FEIS at 3-8 and 4-15]; and (iii) surface coal mining will result in the irretrievable loss of CBM [FEIS at E5-17 and 4-99]. Nevertheless, the FEIS inexplicably concludes that a decision to issue a coal lease for the LBA Tract would be in conformance with the existing land management plan [FEIS at 1-24].

The FEIS repeatedly attempts to justify the immediate leasing of the LBA Tract by arguing that "mining cannot occur until the lessees have approved mining and reclamation permits and MLA mining plans, which generally takes several years" and asserting that "[t]his would allow time for a large portion of the CBM resources to be recovered from these tracts" [FEIS at 2-44]. Such assumptions are not appropriate. Potential permitting delays should never be countenanced as inevitable. The anticipated delays are not consistent with statements by the coal companies that they intend to mine the LBA Tracts on a fast track schedule. The FEIS analysis also ignores the fact that near term mining of the LBA Tract will cause the drainage loss of CBM reserves from adjoining tracts before such reserves can be recovered. In asserting that a substantial portion of the CBM reserves can be recovered prior to the mining of the LBA Tracts, the FEIS apparently assumes that CBM recovery can and will commence immediately. In fact, CBM recovery can itself be delayed for years due to permitting delays and the need for pipeline construction and other support infrastructure. For example, as noted above in this letter, BBC (and its predecessor in interest) have been seeking approval by the USFS of the Big Porcupine EA for approximately three years and BBC is still awaiting required approvals to drill.

The 2001 Letter emphasizes that surface coal mining within the West Roundup LBA Tract will result in the venting and loss of CBM not just within that LBA Tract itself, but also from surrounding lands due to resulting decreases in reservoir pressure, gas drainage and migration and venting at the coal mine face. The 2001 Letter noted that studies indicate that surface coal mines in the Powder River Basin drain and vent CBM from more than five miles away. The 2001 Letter emphasizes that the BLM must quantify and value the CBM resource that will be irretrievably lost, not just from the West Roundup LBA Tract but from surrounding lands as well, if surface coal mining operations are allowed to proceed prior to the full and final recovery of the CBM resource.

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The FEIS makes only a cursory effort to quantify the volume of CBM contained within the West Roundup LBA Tract (FEIS at 4-16). It makes no effort whatsoever to quantify or value the CBM resource that will be lost from surrounding lands as a result of drainage and venting. As noted in the 2001 Letter, without an accurate and reliable estimate of the volume and value of the CBM resource that will be lost, the BLM cannot possibly understand the economic and environmental implications of the various alternatives considered.

One of the essential purposes of an environmental impact statement ("EIS") under the National Environmental Policy Act of 1989 ("NEPA") is to provide agency decision makers with the studies and information necessary to choose prudently between possible alternative courses of action. Without analyzing the volume and value of CBM that will irretrievably be lost through drainage and venting, the FEIS clearly does not satisfy this fundamental purpose of NEPA.

The FEIS acknowledges that surface coal mining in the Powder River Basin has already caused the irretrievable loss through drainage of massive amounts of CBM (FEIS at 4-14). However, the FEIS makes no effort whatsoever to determine the additional amount and value of CBM that will be lost through drainage as a result of the proposed surface coal mining that is the subject of the FEIS.

The FEIS attempts to dodge its responsibility to quantify anticipated CBM drainage losses by stating that drainage "will continue whether or not [the LBA tracts] are leased and mined." While some degree of drainage will continue regardless of additional coal leasing and mining, such additional coal leasing and mining will clearly impact the rate, geographic reach and ultimate extent of CBM drainage losses. It is the unfulfilled responsibility of the FEIS to analyze and quantify such drainage losses.

The FEIS turns on its head the requirement of NEPA that an EIS must analyze cumulative impacts. The FEIS repeatedly takes the approach that past coal mining in the Powder River Basin has been so extensive and its effects so pervasive that the impacts of a newly proposed LBA need not be rigorously analyzed because such incremental impacts will be relatively small. In this manner, the quantification and analysis of CBM drainage losses caused by coal mining has been passed over from one individual coal EIS to the next. As a result, agency officials have never developed a comprehensive plan and policy to issue coal leases in the Powder River Basin in a manner and at a rate that will minimize the loss of CBM reserves. In such a situation, NEPA requires that the cumulative impacts of the proposed action (i.e., CBM drainage losses anticipated as a result of the proposed coal LBAs) and prior actions (i.e., CBM drainage losses

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Attn: Nancy Doelger
January 23, 2004
Page 5

caused by past coal leasing and mining) must be analyzed so that a comprehensive and logical policy to deal with this important issue may be developed by the agency.

The 2001 Letter also notes that methane is a greenhouse gas that contributes significantly to global warming and that, if coal mining is allowed to proceed prior to the recovery of the CBM resource, a substantial amount of methane will be vented into the atmosphere. The 2001 Letter emphasizes that the amount of methane that would be vented and the effects of such venting on the environment need to be quantified, analyzed and understood.

Instead, the FEIS deals with this issue in an inadequate, cursory and dismissive manner, similar to its handling of CBM drainage losses. The FEIS briefly acknowledges that methane is a greenhouse gas that contributes to global warming but then goes on to assert that surface coal mining in the Powder River Basin accounts for only 0.98 percent of the estimated U.S. anthropogenic methane emissions, as if to imply that a reduction of such incremental emissions does not warrant analysis, quantification and consideration. [FEIS at 4-127 & 128] The FEIS further asserts that delaying coal mining until the CBM resource is recovered would not reduce methane emissions because overall coal production would not be reduced (i.e., substitute sources of coal would be mined to meet current demand). This approach ignores the obvious long term benefits of recovering the methane from the LBA Tract before it is mined. NEPA requires a consideration of such long term objectives and an analysis of the tradeoffs between short term benefits and long term environmental consequences.

The 2001 Letter also focused on the loss of CBM as a clean-burning fuel. It noted that, to the extent that CBM is not captured prior to mining, some fuel other than CBM must be burned or utilized to meet society's energy needs and that the replacement fuel is unlikely to burn as cleanly or be as benign to the environment as CBM. Accordingly, the 2001 Letter urged that "the loss of CBM as a clean-burning fuel, its replacement with a substitute energy product and the effect of such substitution in the environment need to be quantified, analyzed and understood." [2001 Letter at 12]. The FEIS provides no such analysis.

While the FEIS briefly identifies certain of the issues discussed above, it fails to provide the detailed analyses, studies and discussion required by NEPA and needed by the BLM to develop sensible plans and policies with respect to the recovery of CBM in advance of surface coal mining operations. The FEIS too often assumes its own conclusion that the proposed coal leases should be issued and fails to consider the impacts thereof and alternatives thereto in a meaningful and constructive way.

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DUCKER, MONTGOMERY, LEWIS & ARONSTEIN, P.C.

Bureau of Land Management
Attn: Nancy Doelger
January 23, 2004
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We hope that these comments are helpful to you. If you have any questions or comments, or wish to discuss any aspect of this matter further, please do not hesitate to contact the undersigned. Thank you for your time and consideration.

ATTORNEYS FOR BILL BARRETT CORPORATION

DUCKER, MONTGOMERY, LEWIS & ARONSTEIN

By: 
James K. Aronstein

JKA/dr
Encl.

cc: Mr. William C. Mitchell

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United States Department of the Interior

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Casper Field Office
2987 Prospector Drive
Casper, Wyoming 82604-2968

3425(LBA)
WYW151134
West Roundup

MAY 12 2004

Ducker, Montgomery, Lewis and Aronstein, P.C.
Attn: James K. Aronstein
1560 Broadway, Suite 1400
Denver, CO 80202

RE: January 23, 2004 Comments Received from Ducker, Montgomery, Lewis & Aronstein, P.C., on the Final South Powder River Basin Coal Environmental Impact Statement (EIS)

Dear Mr. Aronstein:

The BLM has reviewed the comments you provided regarding the concerns of your client, Bill Barrett Corporation with respect to Triton Coal Company LLC's West Roundup LBA Tract (WYW151134), and offers the following information in response.

Comment: *"However, the 2001 Letter (which was appended to and incorporated into the 2003 letter) was not included in the FEIS.*

Response: The referenced 2001 letter, which is part of the administrative record for the South Powder River Basin Coal EIS, was received during the scoping period for the EIS, which extended from October 1 through October 31, 2001, as discussed in Section 1.5 of the EIS. Scoping comments are not printed in the EIS, but are reviewed and considered to be items that need to be addressed in the preparation of the EIS. A list of issues and concerns that were identified during the scoping period is present in Section 1.5 of the EIS, and includes the concern with potential conflicts with and existing and proposed CBM development described in your 2001 letter. The potential conflicts with CBM development and loss of CBM reserves are addressed in the "Mineral Resources" and "Ownership and Use of Land" sections of both Chapters 3 and 4 of the EIS.

Comment: *However, a significant portion of the CBM well sites in BBC's program are situated within the boundaries of the Thunder Basin Nation Grass Lands, which are administered by the USFS. The drilling of these wells awaits approval by the USFS of the Big Porcupine Environmental Assessment (the "EA"). BBC and its predecessor in interest (Independent Production Company) have been seeking approval of the EA since 2001. We understand that the EA has been submitted for approval and is currently in the comment period.*

Response: The *Decision Notice and Finding of No Significant Impact* for the Big Porcupine Coal Bed Methane Project was signed by the Forest Supervisor for the Medicine Bow-Routt National Forest and Thunder Basin National Grassland on April 23, 2004.

Comment: *The 2001 Letter and the 2003 Letter explained that surface coal mining within the West Roundup LBA will destroy the reservoir in which the CBM resides and cause the irretrievable venting and waste of the CBM reserves, both within the LBA tract and for several miles around it.*

Response: The EIS discusses the effects of surface coal mining on both the CBM reservoir in the area that is being mined and the CBM reserves in adjacent areas. For example:

“The predominant CBM production to date has occurred from coal beds of the Wyodak-Anderson zone in seams known as the Anderson, Canyon, Wyodak, Big George, and other locally-used names. These are the same (or equivalent) seams that are being mined along the eastern margin of the basin by the mines that are included in this analysis.” (FEIS, p. 3-7 & 8)

“Provisional production decline curves for some of the wells with the lengthiest production histories suggest that the expected life for wells located on or near the SPRB LBA tracts might range from one to five years. These wells demonstrate that CBM can be produced in areas that have been affected by mining-related groundwater drawdown.” (FEIS, p. 3-72)

“CBM resources that are not recovered prior to mining would be irretrievably lost when the coal is removed.” (FEIS, p. 4-13)

“Implicit in the analysis conducted by WSO-RMG is the observation that coal mining and mine-related dewatering affects CBM resources and development potential. As described, water production from the coal seams is required to reduce hydrostatic pressure in the coal seams so that methane can desorb from the coals for production. Mine-related dewatering of the coal seams has the same effect of reducing hydrostatic pressure and methane desorption. The preliminary CBM reservoir models indicate that depletion of the hydrostatic pressures and methane resources has occurred adjacent to mining areas since not long after mining began and continues to the present time. Based on the methane adsorption/pressure analyses prepared for the General Analysis Area, the preliminary model shows that as much as 60 percent of the original in-place CBM resources in the LBA areas may have been depleted between 1982 and 2000. This effect will be enhanced as mining continues to proceed toward the LBA tracts and will continue whether or not they are leased and mined. The short productive life inferred for CBM wells in the LBA areas suggests that wells which are completed early could recover substantial portions of the remaining reserves prior to any mining within the LBA tracts.” [FEIS, p. 4-14, WSO-RMG is BLM’s Reservoir Management Group, which conducted an analysis of CBM resources in the General Analysis Area for use in the EIS. This discussion is followed (p. 4-14 through 4-16) by a description of the CBM development and estimates of CBM reserves in each tract as of 2000.]

"In the PRB, CBM is being produced from the coal areas adjacent to and generally downdip of the mines. CBM is currently being produced from the same coal seams that would be mined in all five of the LBA tracts considered in this EIS. As discussed in Section 4.1.2 of this EIS, BLM estimates that a large portion of the CBM reserves could be recovered prior to initiation of mining activity on the LBA tracts under the Proposed Action and other alternatives considered in this EIS. CBM reserves that are not recovered prior to mining would be vented to the atmosphere." (FEIS, p. 4-128)

"Mining the coal prior to recovery of all of the CBM resources releases CBM into the atmosphere." (FEIS, p. 4-150)

The ground water monitoring data that have been collected by the coal mines in this area since 1980 indicate that the area of five foot groundwater drawdown in the coal aquifer extended to the western edge of the West Roundup LBA Tract in 1995 (see shaded area on attached Figure 1). Between 1995 and 2000, the area of five feet of drawdown was extended several townships beyond the western edge of the West Roundup LBA Tract (see shaded area on attached Figure 2). This significant increase in the area of five-foot drawdown in the coal between 1995 and 2000 reflects the influence of both CBM development and surface coal mining on the groundwater level in the coal in the General Analysis Area during that time frame.

Comment: *The ability to produce CBM from well sites on adjoining lands will also be severely prejudiced by the loss of reservoir pressure and the drainage, migration, and venting of CBM resulting from mining of the LBA Tract.*

Response: The EIS recognizes that surface coal mining has affected reservoir pressure and depleted CBM resources in the adjacent areas, including the LBA Tracts. As mentioned above, a CBM resource analysis for the General Analysis Area prepared by the WSO-RMG, which discusses the impact that surface coal mining has had on the CBM resource since mining was initiated in this area, is summarized in Section 4.1.2.1 of the Final EIS. As indicated in the excerpts above, according to WSO-RMG's analysis, preliminary CBM reservoir models in this area indicate that depletion of the hydrostatic pressures and methane resource has occurred adjacent to mining area since not long after mining began and continues to the present time. Based on the methane adsorption/ pressure analyses prepared for the General Analysis Area, the preliminary model shows that as much as 60 percent of the original in-place CBM resources in the LBA areas may have been depleted between 1982 and 2000.

Comment: *Pursuant to the FEIS, the BLM has selected a preferred alternative for the West Roundup BLA Tract that significantly expands the area to be leased for coal mining (FEIS at 2-33 & 34, ES-9). As a result, myriad additional CBM sites will be directly and indirectly impacted.*

Response: The West Roundup LBA Tract as applied for included approximately 1,870 acres. Under BLM's Preferred Alternative, approximately 942 acres would be added, which increases the size of the tract by approximately 53 percent. As discussed on page 2-32 of the FEIS, most of the lands that would be added under the Preferred Alternative (up to about 782 of the 942

acres that would be added) lie within a Forest Service special use permit and are unsuitable for mining under Unsuitability Criterion 2. These lands are occupied by a county road and the railroad spur and mine facilities for the North Rochelle Mine. These facilities (road, railroad spur, and mine facilities) would have to be moved before the coal underneath them could be determined to be suitable for mining. It would not be economically feasible to move these facilities to remove the coal at this time. BLM's Preferred Alternative includes this area because it may be possible to recover portions of the coal reserves adjacent to the Forest Service Special Use Permit when the rest of the coal in the tract is mined, and because it may become economically feasible at some point in the future to move the road, railroad spur, and mine facilities, terminate the Forest Service Special Use Permit, and recover the coal, if it is leased. In the foreseeable future, CBM development would only be directly and indirectly affected by surface coal mining on approximately 159 of the 942 acres added to the lease under the preferred alternative. Coal bed methane wells have been drilled on a private oil and gas lease that includes approximately 120 of those acres. CBM development would be foreseeably affected by mining on the remaining 39 acres added to the tract under the Preferred Alternative. At most, this would represent one spacing unit for a coal bed methane well.

Comment: *For example, the 2001 Letter noted that, pursuant to applicable regulations of the BLM, coal leases cannot be sold unless such a sale is consistent with the governing BLM land use plan (2001 Letter at 10). The 2001 Letter further notes that the BLM's land use plan covering the LBA Tract, the Buffalo Resource Management Plan issued in 1985 (the 1985 Buffalo RMP), states that the BLM must "defer coal leasing in producing oil and gas field unless or until the coal development will not interfere with the economic recovery of the oil and gas resources..." The EIS acknowledges that coal leasing decisions must be consistent with the governing land use plan and further acknowledges that: (i) under the 1985 Buffalo RMP, coal leasing in producing oil and gas fields should be deferred until coal development will not interfere with economic recovery of the oil and gas resource (FEIS at 1-23); (ii) CBM is currently being produced within the West Roundup LBA Tract (FEIS at 3-8 and 4-15); and (iii) surface coal mining will result in the irretrievable loss of CBM (FEIS at ES-17 and 4-99). Nevertheless, the FEIS inexplicably concludes that a decision to issue a coal lease for the LBA Tract would be in conformance with the existing management plan (FEIS at 1-24).*

Response: The EIS explains the decision to issue a coal lease in terms of satisfying the regulatory requirements cited in your 2001 letter and others (43 CFR 3420.1-4, 43 CFR 3420.1-8, 43 CFR 3425.2 and NEPA) as follows.

- It identifies (FEIS page 1-20) that the BLM *Approved Resource Management Plan for Public Lands Administered by the Bureau of Land Management Buffalo Field Office*, an update of the 1985 Buffalo RMP, governs and addresses the leasing of federal coal in Campbell County, which is the location of the West Roundup LBA Tract.
- It explains (FEIS page 1-23) that the 2001 BLM Buffalo RMP update did not recommend changes to existing 1985 Buffalo RMP Decision MM-5, which recommended deferring coal leasing in producing oil and gas fields until coal development would not interfere with economic recovery of the oil and gas resources, as determined on a case by case basis (emphasis added). [The decision in the 2001 Buffalo RMP Update states: "Coal leasing in producing oil and gas fields would be deferred unless or until coal development

would not interfere with the economic recovery of the oil and gas resources. This would be determined on a case-by-case basis.”]

- It discusses (FEIS page 1-23) the October 25, 2000 public meeting in Cheyenne at which the Powder River Regional Coal Team (PRRCT) reviewed the lease applications evaluated in the FEIS, heard presentations from oil and gas lessees who might be affected by leasing the LBA tracts regarding deferring coal leasing, and recommended that the BLM process the lease applications. Subsequently, the BLM Wyoming State Director reviewed the recommendations of the PRRCT and the BLM analyses of the coal and CBM resources in the area (including the technical information discussed below) and determined that, based on his case by case review of the situation, the applications should be processed.
- It discloses that CBM resources that are not recovered prior to mining (emphasis added) would be vented to the atmosphere and permanently lost (FEIS pages ES-17, 4-99, and 4-158).
- It discusses (FEIS page 1-23 and 1-24) how the Wyoming BLM is addressing agency policy on conflicts between CBM and coal operators by encouraging CBM operators whose leases may be affected by surface coal mining to develop and recover CBM resources.
- It explains (FEIS page 1-20 through 1-23) that the tracts being considered for leasing in the South Powder River Basin Coal EIS have been subjected to the four required coal planning screens and are considered acceptable for further consideration for leasing.

The EIS explains the technical data available on the CBM resource in the General Analysis Area as follows.

- It summarizes the results of the WSO-RMG CBM resource analysis in the General Analysis Area (FEIS pages 4-13 through 4-16), which concludes that as much as 60 percent of the original in-place CBM resource in the LBA areas may have been depleted between 1982 and 2000, that this effect will be enhanced as mining continues to proceed toward the LBA Tracts and will continue whether or not they are leased and mined, and that the short productive life inferred for CBM wells in the LBA areas suggests that wells which are completed early could recover substantial portions of the remaining reserves prior to any mining within the LBA Tract.
- It presents data in support of this conclusion by showing the extent to which surface coal mining operations on existing coal leases and CBM development in the surrounding area have already lowered groundwater levels, and thereby reduced the hydrostatic pressure in the coal beds in the LBA tracts as of 2000 (see attached Figure 2, which is Figure 4-14 in the EIS).

Comment: *Potential permitting delays should never be countenanced as inevitable.*

Response: The mining companies are required to get approval of a permit to conduct mining operations by the State of Wyoming and approval of a MLA mining plan by the Assistant Secretary of the Interior prior to mining any leases they acquire (FEIS p. 1-19). This is not a potential permitting delay; it is a regulatory requirement involving baseline data collection, review of and concurrence with a detailed mining and reclamation plan by multiple agencies, a technical review by the WDEQ, and opportunities for public review and comment. For example,

the North Rochelle Mine acquired Federal coal lease WYW127221 on January 1, 1998, submitted a permit application package for a permit revision for the North Rochelle Mine to conduct operations on the new lease on February 22, 2000, and the mining plan revision was approved by the Assistant Secretary of the Interior on April 2, 2003. Mining operations moved onto Federal coal lease WYW12722 toward the end of 2003, almost six years after the lease was issued.

Comment: *The anticipated delays are not consistent with statements by the coal companies that they intend to mine the LBA Tracts on a fast track schedule.*

Response: As discussed in Section 1.1 of the EIS, the applicant mines for the five LBA Tracts being considered for leasing have estimated that their existing recoverable reserves will be depleted in from 6.7 to 24 years at their anticipated annual production rates. They have applied for additional coal in advance of when it is needed in anticipation of the time that is needed to acquire a lease and complete the permitting process, as discussed above.

Comment: *The FEIS analysis also ignores the fact that near term mining of the LBA Tract will cause the drainage loss of CBM reserves from adjoining tracts before such reserves can be recovered.*

The 2001 Letter emphasizes that surface coal mining within the West Roundup LBA Tract will result in the venting and loss of CBM not just within the LBA Tract itself, but also from surrounding lands due to resulting decreases in reservoir pressure, gas drainage and migration and venting at the coal mine face.

Response: As discussed above, the EIS acknowledges that CBM reserves on the LBA tracts have already been depleted by mining operations on the existing coal leases and CBM development in this area and that this effect will continue whether or not the federal coal tracts are leased and mined.

Comment: *The 2001 Letter emphasizes that the BLM must quantify and value the CBM resource that will be irretrievably lost, not just from the West Roundup LBA Tract but from surrounding lands as well, if the surface coal mining operations are allowed to proceed prior to the full and final recovery of the CBM resource.*

The FEIS acknowledges that surface coal mining in the Powder River Basin has already caused the irretrievable loss through drainage of massive amounts of CBM (FEIS 4-14). However, the FEIS makes no effort whatsoever to determine the additional amount and value of CBM that will be lost through drainage as a result of the proposed surface coal mining that is the subject of the FEIS.

It is the unfulfilled responsibility of the FEIS to analyze and quantify such drainage losses.

Response: The FEIS quantifies the loss of CBM reserves due to mining through the year 2000 and the estimated remaining CBM reserves on each tract by:

- summarizing the results of the CBM reservoir modeling analysis and methane adsorption/pressure analyses prepared by WSO-RMG (FEIS, pages 4-13 through 4-16 discussed above) which concluded that depletion of the hydrostatic pressures and methane reserves has occurred adjacent to mining areas since not long after mining began and continues to the present time; that, as much as 60% of the original in-place CBM resources in the LBA areas were depleted between 1982 to 2000; that this effect has continued since 2000 and will be enhanced as mining proceeds toward the LBA areas; and that this depletion will continue whether or not the LBA Tracts are leased or mined as a result of mining operations and CBM development on the adjacent lands; and estimating coal gas content and recoverable CBM reserves on each LBA tract as of the year 2000 (FEIS pages 4-14 through 4-16).

The EIS also recognizes that monitoring of groundwater levels in the coal indicates that CBM development in the General Analysis area is affecting CBM reserves in the area. FEIS Figure 4-14 (attached figure 2), shows the area of five-foot drawdown (and therefore the area of depletion of hydrostatic pressure in the coal) in 2000 and notes that CBM production has significantly affected the extent of drawdown in the area. As discussed above, since 1995, the loss of CBM reserves on undrilled portions of the General Analysis Area has not been due to surface coal mining operations alone; CBM development has contributed and is contributing to this loss. This conclusion is substantiated by comparison of area of five foot drawdown measured in the coal in 1995, after 15 years of mining but in the early stages of CBM development in the General Analysis Area (see attached Figure 1), with the area of five foot drawdown measured in the coal after 20 years of mining and five years of increasing CBM development in the area (see attached Figure 2, which is also FEIS Figure 4-14). This comparison shows that the area of measured five-foot drawdown was expanded more in the five years after CBM development moved into this area than it had been during 15 years of coal mining previous to 1995. The losses of the CBM reserves prior to 1995 are primarily attributable to surface coal mining operations; however, losses since 1995 are attributable to both surface coal mining and CBM development and the proportion of those losses attributable to CBM development is increasing as production continues in the area. Surface coal mining operations on the LBA Tracts will not occur for several years, at best, and depletion of the CBM reserves will continue, due to increasing CBM production as well as advancing surface coal mining operations, during that time.

Prior to 1995, mining operations at the mines included in the South Powder River Basin Coal EIS were primarily located on the original federal coal reserves leased by the mines included in the South Powder River Basin Coal EIS. These original Federal coal leases were issued in 1966 or before, prior to the issuance of many, although not all, of the oil and gas leases on the LBA tracts. As shown in attached Figure 1, the area of greater than five foot measured drawdown in the coal already encompassed most of the area applied for in South Powder River Basin LBA tracts by 1995. Accordingly, the reductions in hydrostatic pressure in the coal and associated depletion of the CBM resources on the LBA Tracts shown in attached Figure 1 were caused by approved surface coal mining operations on federal coal leases issued in 1966 or before.

BLM has a policy on conflicts between CBM and surface coal mine development in the Powder River Basin, as outlined in BLM Instruction Memorandum No. 2003-253, dated August 21, 2003. The goals of this policy are to optimize the recovery of both resources in an endeavor to

secure the maximum return to the public in revenue and energy production, prevent avoidable waste of the public's resources using existing statutes, regulations, and lease terms, honor the rights of each lessee, subject to the terms of the lease and sound principles of resource conservation and protect public health and safety, and mitigate environmental impacts. As one means of achieving these goals, BLM is establishing a Conflict Administration Zone (CAZ) around each active coal mine or LBA area. CBM operators within the CAZ are to be notified about near-future mining activities, BLM's authority to require proper and timely development of leased resources, and the potential availability of incentives such as a royalty rate reduction to encourage development. A 50 percent royalty rate reduction may be offered to oil and gas lessees if those lessees agree to expedite CBM development and to abandon wells and facilities at BLM's request prior to the arrival of mining operations in the area of the wells.

Comment: *The FEIS repeatedly takes the approach that past coal mining in the Powder River Basin has been so extensive and its effects so pervasive that the impacts of the newly proposed LBA need not be rigorously analyzed because such incremental impacts will be relatively small.*

Response: The EIS recognizes that the LBA tracts being considered for leasing would be maintenance leases for existing surface coal mines which would extend existing operations in time and onto new areas but would not result in new mine facilities, new road disturbance, increasing employment, or new infrastructure demands on the communities in the area.

Comment: *In such a situation, NEPA requires that the cumulative impacts of the proposed action (i.e. CBM drainage losses anticipated as a result of the proposed coal LBAs) and prior actions (i.e., CBM drainage losses caused by past coal leasing and mining) must be analyzed so that a comprehensive and logical policy to deal with this important issue may be developed by the agency.*

See above responses for discussions of the quantification of CBM within the LBA tracts, CBM losses caused by past coal leasing and mining and BLM policy on dealing with coal mining and CBM development conflicts.

Comment: *The FEIS briefly acknowledges that methane is a greenhouse gas that contributes to global warming but then goes on to assert that surface coal mining in the Powder River Basin accounts for only 0.98 percent of the estimated U.S. anthropomorphic methane emissions, as if to imply that a reduction of such incremental emission does not warrant analysis, quantification and consideration. (FEIS as 4-127 & 128)*

Response. The EIS quantifies the amount of CBM estimated to have been present on each LBA Tract in the year 2000 (pages 4-14 through 4-16) and recognizes that recovery of CBM from coal prior to mining could gradually reduce U.S. emissions of methane to the atmosphere, that CBM is currently being produced from the same coal seams that would be mined in all five of the LBA tracts considered in the EIS, that BLM estimates that a large portion of the CBM reserves could be recovered prior to initiation of mining activity on the LBA tracts under the Proposed Action and other alternatives considered in this EIS (page 4-128). This conclusion is supported by the increasing production of CBM in this area, including on some of the LBA Tracts, and the fact that the coal would not be mined until a mining and reclamation permit and MLA mining permit

are acquired (as discussed above), during which time CBM production on the tracts can continue. The EIS also recognizes (page 4-158) that, while U.S. methane emissions attributable to surface coal mining would not be likely to decrease if one or more of these five LBA tracts are not leased at this time, methane could be more completely recovered from an LBA tract if leasing is delayed.

Comment: *The 2001 Letter also focused on the loss of CBM as a clean-burning fuel. It noted that, to the extent that CBM is not captured prior to mining, some fuel other than CBM must be burned or utilized to meet society's energy needs and that the replacement fuel is unlikely to burn as cleanly or be as benign to the environment as CBM.*

Response: CBM and coal are both important, established, and valuable sources of fuel that are currently being used to meet society's energy needs. The clean PRB coal currently being mined is being utilized by coal-burning power plants to meet energy needs. To the extent that equally clean coal reserves are not available in the future, coal other than PRB coal must be burned and that replacement coal is unlikely to burn as cleanly or be as benign to the environment as PRB coal. That is why the goals of BLM's policy on conflicts between CBM and coal mining operations are to optimize the recovery of both resources in an endeavor to secure the maximum return to the public in revenue and energy production, prevent avoidable waste of the public's resources using existing statutes, regulations, and lease terms, honor the rights of each lessee, subject to the terms of the lease and sound principles of resource conservation and protect public health and safety, and mitigate environmental impacts.

If you have any questions or would like to discuss your concerns further, please contact Nancy Doelger at (307) 261-7627.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Paul", written over a horizontal line.

Assistant Field Manager, Solid Minerals

ATTACHMENT

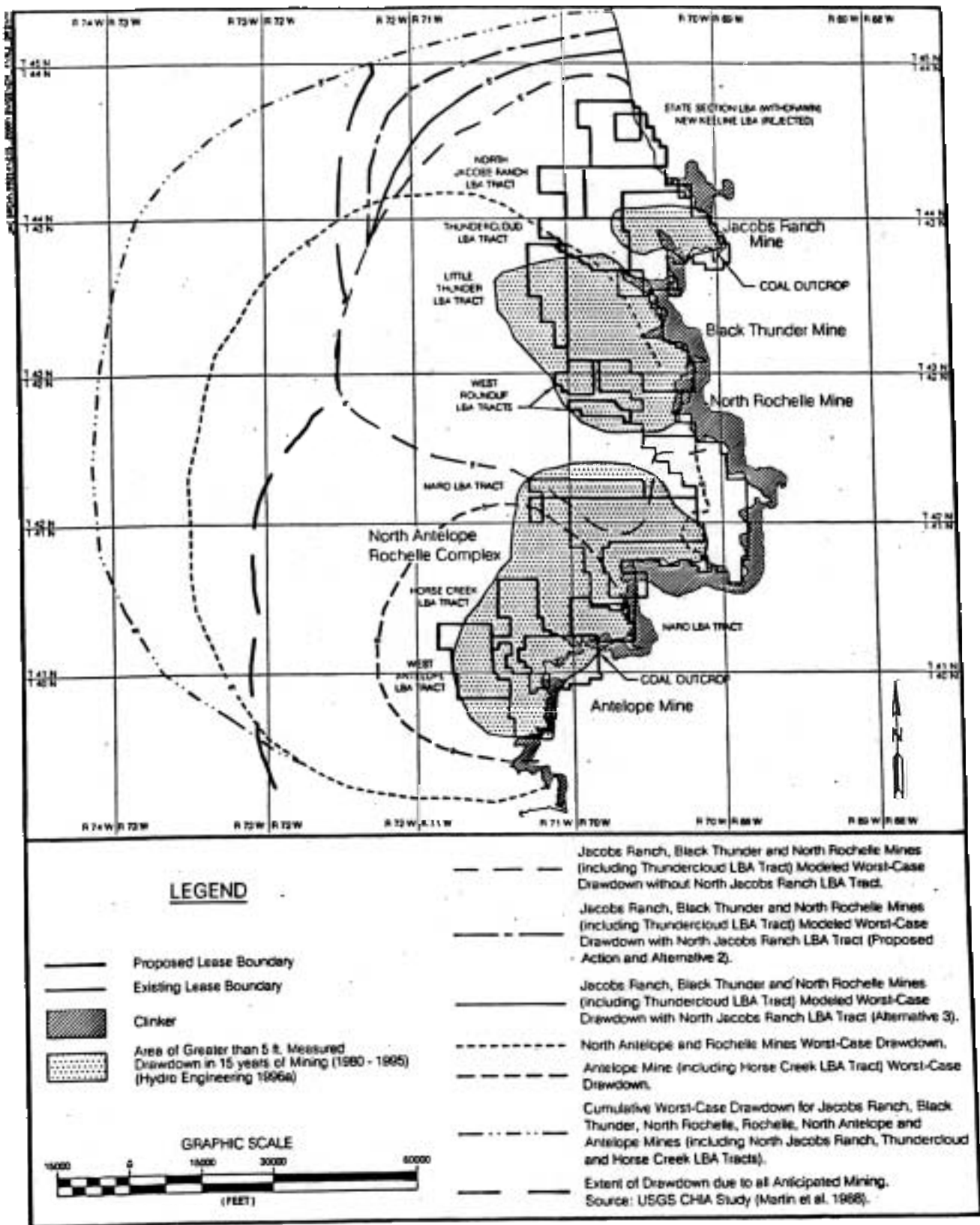


Figure 1. Modeled and Extrapolated Worst-Case Wyodak Coal Aquifer Drawdown Scenarios Showing Extent of the Actual 15-Year Drawdowns and USGS Predicted Cumulative Drawdown

ATTACHMENT

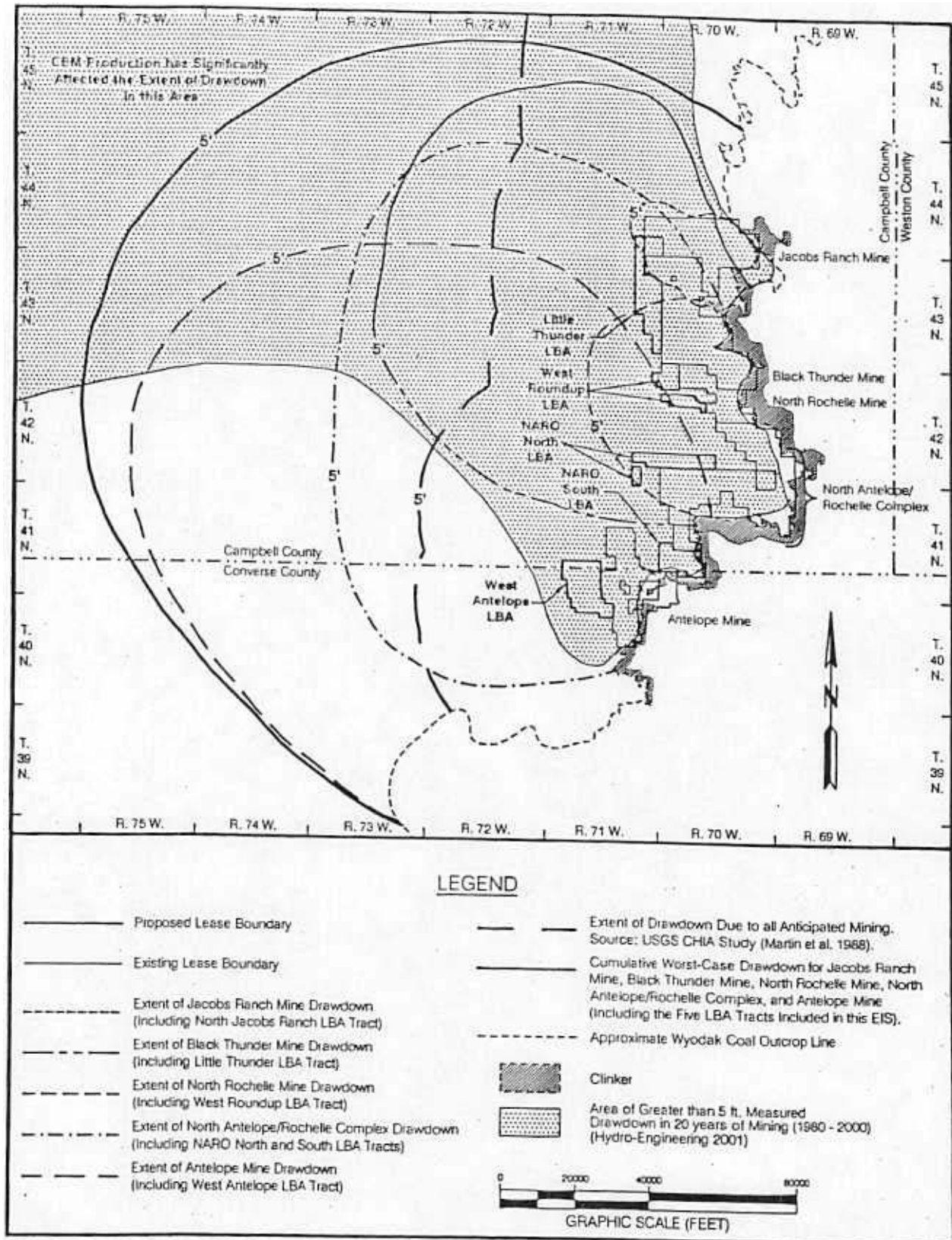


Figure 2. Extrapolated Worst Case Wyodak Coal Aquifer Drawdown Scenarios Showing Actual Extent of 20-Year Drawdowns and USFS Modeled Cumulative Drawdowns

ATTACHMENT 3:

**BLM SPECIAL COAL LEASE STIPULATIONS &
FOREST SERVICE NOTICE FOR LANDS OF THE
NATIONAL FOREST SYSTEM UNDER
JURISDCITION OF THE DEPARTMENT OF
AGRICULTURE
FOR THE WEST ROUNDUP LBA TRACT
(WYW151134)**

SEC. 15. SPECIAL STIPULATIONS -

In addition to observing the general obligations and standards of performance set out in the current regulations, the lessee shall comply with and be bound by the following special stipulations.

These stipulations are also imposed upon the lessee's agents and employees. The failure or refusal of any of these persons to comply with these stipulations shall be deemed a failure of the lessee to comply with the terms of the lease. The lessee shall require his agents, contractors and subcontractors involved in activities concerning this lease to include these stipulations in the contracts between and among them. These stipulations may be revised or amended, in writing, by the mutual consent of the lessor and the lessee at any time to adjust to changed conditions or to correct an oversight.

(a) **CULTURAL RESOURCES** - (1) Before undertaking any activities that may disturb the surface of the leased lands, the lessee shall conduct a cultural resource intensive field inventory in a manner specified by the Authorized Officer of the BLM or of the surface managing agency, if different, on portions of the mine plan area and adjacent areas, or exploration plan area, that may be adversely affected by lease-related activities and which were not previously inventoried at such a level of intensity. The inventory shall be conducted by a qualified professional cultural resource specialist (i.e., archeologist, historian, historical architect, as appropriate), approved by the Authorized Officer of the surface managing agency (BLM, if the surface is privately owned), and a report of the inventory and recommendations for protecting any cultural resources identified shall be submitted to the Assistant Director of the Western Support Center of the Office of Surface Mining, the Authorized Office of the BLM, if activities are associated with coal exploration outside an approved mining permit area (hereinafter called Authorized Officer), and the Authorized Officer of the surface managing agency, if different. The lessee shall undertake measures, in accordance with instructions from the Assistant Director, or Authorized Officer, to protect cultural resources on the leased lands. The lessee shall not commence the surface disturbing activities until permission to proceed is given by the Assistant Director or Authorized Officer.

(2) The lessee shall protect all cultural properties that have been determined eligible to the National Register of Historic Places within the lease area from lease-related activities until the cultural resource mitigation measures can be implemented as part of an approved mining and reclamation or exploration plan unless modified by mutual agreement in consultation with the State Historic Preservation Officer.

(3) The cost of conducting the inventory, preparing reports, and carrying out mitigation measures shall be borne by the lessee.

(4) If cultural resources are discovered during operations under this lease, the lessee shall immediately bring them to the attention of the Assistant Director or Authorized Officer, or the Authorized Officer of the surface managing agency, if the Assistant Director is not available. The lessee shall not disturb such resources except as may be subsequently authorized by the Assistant Director or Authorized Officer.

Within two (2) working days of notification, the Assistant Director or Authorized Officer will evaluate or have evaluated any cultural resources discovered and will determine if any action may be required to protect or preserve such discoveries. The cost of data recovery for cultural resources discovered during lease operations shall be borne by the lessee unless otherwise specified by the Authorized Officer of the BLM or of the surface managing agency, if different.

(5) All cultural resources shall remain under the jurisdiction of the United States until ownership is determined under applicable law.

SEC. 15. SPECIAL STIPULATIONS (Continued) -

(b) **PALEONTOLOGICAL RESOURCES** - If paleontological resources, either large and conspicuous, and/or of significant scientific value are discovered during mining operations, the find will be reported to the Authorized Officer immediately. Mining operations will be suspended within 250 feet of said find. An evaluation of the paleontological discovery will be made by a BLM approved professional paleontologist within five (5) working days, weather permitting, to determine the appropriate action(s) to prevent the potential loss of any significant paleontological value. Operations within 250 feet of such discovery will not be resumed until written authorization to proceed is issued by the Authorized Officer. The lessee will bear the cost of any required paleontological appraisals, surface collection of fossils, or salvage of any large conspicuous fossils or significant scientific interest discovered during the operations.

(c) **THREATENED, ENDANGERED, CANDIDATE, or OTHER SPECIAL STATUS PLANT and ANIMAL SPECIES** - The lease area may now or hereafter contain plants, animals, or their habitats determined to be threatened or endangered under the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*, or that have other special status. The Authorized Officer may recommend modifications to exploration and development proposals to further conservation and management objectives or to avoid activity that will contribute to a need to list such species or their habitat or to comply with any biological opinion issued by the Fish and Wildlife Service for the proposed action. The Authorized Officer will not approve any ground-disturbing activity that may affect any such species or critical habitat until it completes its obligations under applicable requirements of the Endangered Species Act. The Authorized Officer may require modifications to, or disapprove a proposed activity that is likely to result in jeopardy to the continued existence of a proposed or listed threatened or endangered species, or result in the destruction or adverse modification of designated or proposed critical habitat.

The lessee shall comply with instructions from the Authorized Officer of the surface managing agency (BLM, if the surface is private) for ground disturbing activities associated with coal exploration on federal coal leases prior to approval of a mining and reclamation permit or outside an approved mining and reclamation permit area. The lessee shall comply with instructions from the Authorized Officer of the Office of Surface Mining Reclamation and Enforcement, or his designated representative, for all ground disturbing activities taking place within an approved mining and reclamation permit area or associated with such a permit.

(d) **MULTIPLE MINERAL DEVELOPMENT** - Operations will not be approved which, in the opinion of the Authorized Officer, would unreasonably interfere with the orderly development and/or production from a valid existing mineral lease issued prior to this one for the same lands.

(e) **OIL AND GAS/COAL RESOURCES** - The BLM realizes that coal mining operations conducted on Federal coal leases issued within producing oil and gas fields may interfere with the economic recovery of oil and gas; just as Federal oil and gas leases issued in a Federal coal lease area may inhibit coal recovery. BLM retains the authority to alter and/or modify the resource recovery and protection plans for coal operations and/or oil and gas operations on those lands covered by Federal mineral leases so as to obtain maximum resource recovery.

(f) **RESOURCE RECOVERY AND PROTECTION** - Notwithstanding the approval of a resource recovery and protection plan (R2P2) by the BLM, lessor reserves the right to seek damages against the operator/lessee in the event (i) the operator/lessee fails to achieve maximum economic recovery (MER) (as defined at 43 CFR 3480.0-5(21)) of the recoverable coal reserves or (ii) the operator/lessee is determined to have caused a wasting of recoverable coal reserves. Damages shall be measured on the basis of the royalty that would have been payable on the wasted or unrecoverable coal.

The parties recognize that under an approved R2P2, conditions may require a modification by the operator/lessee of that plan. In the event a coal bed or portion thereof is not to be mined or is rendered

SEC. 15. SPECIAL STIPULATIONS (Continued) -

unmineable by the operation, the operator/lessee shall submit appropriate justification to obtain approval by the Authorized Officer to lease such reserves unmined. Upon approval by the Authorized Officer, such coal beds or portions thereof shall not be subject to damages as described above. Further, nothing in this section shall prevent the operator/lessee from exercising its right to relinquish all or portion of the lease as authorized by statute and regulation.

In the event the Authorized Officer determines that the R2P2, as approved, will not attain MER as the result of changed conditions, the Authorized Officer will give proper notice to the operator/lessee as required under applicable regulations. The Authorized Office will order a modification if necessary, identifying additional reserves to be mined in order to attain MER. Upon a final administrative or judicial ruling upholding such an ordered modification, any reserves left unmined (wasted) under that plan will be subject to damages as described in the first paragraph under this section.

Subject to the right to appeal hereinafter set forth, payment of the value of the royalty on such unmined recoverable coal reserves shall become due and payable upon determination by the Authorized Officer that the coal reserves have been rendered unmineable or at such time that the operator/lessee had demonstrated an unwillingness to extract the coal.

The BLM may enforce this provision either by issuing a written decision requiring payment of the MMS demand for such royalties, or by issuing a notice of non-compliance. A decision or notice of non-compliance issued by the lessor that payment is due under this stipulation is appealable as allowed by law.

(g) PUBLIC LAND SURVEY PROTECTION - The lessee will protect all survey monuments, witness corners, reference monuments, and bearing trees against destruction, obliteration, or damage during operations on the lease areas. If any monuments, corners or accessories are destroyed, obliterated, or damaged by this operation, the lessee will hire an appropriate county surveyor or registered land surveyor to reestablish or restore the monuments, corners, or accessories at the same locations, using the surveying procedures in accordance with the "Manual of Surveying Instructions for the Survey of the Public Lands of the United States." The survey will be recorded in the appropriate county records, with a copy sent to the Authorized Officer.

(h) U.S. FOREST SERVICE SPECIAL USE PERMIT FOR THE NORTH ROCHELLE MINE

No mining activity of any kind may be conducted on the lands included in the U.S. Forest Service special use permit for ancillary facilities for the North Rochelle Mine, except for those facilities which were included in the application from Triton Coal Company for the West Roundup LBA Tract. The lessee shall recover all legally and economically recoverable coal from all leased lands not within the foregoing special use permit. Lessee shall pay all royalties on any legally and economically recoverable coal which it fails to mine without the written permission of the Authorized Officer.

**NOTICE FOR LANDS OF THE NATIONAL FOREST SYSTEM
UNDER JURISDICTION OF DEPARTMENT OF AGRICULTURE**

JUL 09 2004
CASPER FIELD OFFICE

R2-FS-2820-13 (92)

Serial No. WYW151134

The permittee/lessee must comply with all the rules and regulations of the Secretary of Agriculture set forth at Title 36, Chapter II, of the Code of Federal Regulations governing the use and management of the National Forest System (NFS) when not inconsistent with the rights granted by the Secretary of Interior in the permit. The Secretary of Agriculture's rules and regulations must be complied with for (1) all use and occupancy of the NFS prior to approval of an exploration plan by the Secretary of the Interior, (2) uses of all existing improvements, such as forest development roads, within and outside the area permitted by the Secretary of the Interior, and (3) use and occupancy of the NFS not authorized by an exploration plan approved by the Secretary of the Interior.

All matters related to this stipulation are to be addressed to:

Forest Supervisor

Medicine Bow-Routt National Forests & Thunder Basin National Grassland

2468 Jackson Street

Laramie, WY 82070

307-745-2300

who is the authorized representative of the Secretary of Agriculture.

NOTICE

CULTURAL AND PALEONTOLOGICAL RESOURCES - The FS is responsible for assuring that the leased lands are examined to determine if cultural resources are present and to specify mitigation measures. Prior to undertaking any surface-disturbing activities on the lands covered by this lease, the lessee or operator, unless notified to the contrary by the FS, shall:

1. Contact the FS to determine if a site specific cultural resource inventory is required. If a survey is required, then:
2. Engage the services of a cultural resource specialist acceptable to the FS to conduct a cultural resource inventory of the area of proposed surface disturbance. The operator may elect to inventory an area larger than the area of proposed disturbance to cover possible site relocation which may result from environmental or other considerations. An acceptable inventory report is to be submitted to the FS for review and approval at the time a surface disturbing plan of operation is submitted.

3. Implement mitigation measures required by the FS and BLM to preserve or avoid destruction of cultural resource values. Mitigation may include relocation of proposed facilities, testing, salvage, and recordation or other protective measures. All costs of the inventory and mitigation will be borne by the lessee or operator, and all data and materials salvaged will remain under the jurisdiction of the U.S. Government as appropriate.

The lessee or operator shall immediately bring to the attention of the FS and BLM any cultural or paleontological resources or any other objects of scientific interest discovered as a result of surface operations under this lease, and shall leave such discoveries intact until directed to proceed by FS and BLM.

ENDANGERED OR THREATENED SPECIES - The FS is responsible for assuring that the leased land is examined prior to undertaking any surface-disturbing activities to determine effects upon any plant or animal species listed or proposed for listing as endangered or threatened, or their habitats. The findings of this examination may result in some restrictions to the operator's plans or even disallow use and occupancy that would be in violation of the Endangered Species Act of 1973 by detrimentally affecting endangered or threatened species or their habitats.

The lessee/operator may, unless notified by the FS that the examination is not necessary, conduct the examination on the leased lands at his discretion and cost. This examination must be done by or under the supervision of a qualified resource specialist approved by the FS. An acceptable report must be provided to the FS identifying the anticipated effects of a proposed action on endangered or threatened species or their habitats.

Signature of Licensee/Permittee/Lessee

JUL 09 2004
CASPER FIELD

ATTACHMENT 4:

**U.S. FISH AND WILDLIFE SERVICE
CONCURRENCE LETTER IN RESPONSE TO BLM
FORMAL REQUEST FOR CONSULTATION FOR
THE FIVE SOUTH POWDER RIVER BASIN COAL
LEASE BY APPLICATION TRACTS UNDER THE
ENDANGERED SPECIES ACT, SECTION 7**



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
4000 Airport Parkway
Cheyenne, Wyoming 82001


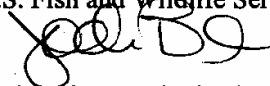
RECEIVED - BLM
FEB 19 2004
CASPER FIELD OFFICE

In Reply Refer To:
ES-61411/W.02/WY7940

February 14, 2004

Memorandum

To: Mike Karbs, Assistant Field Manager, Solid Minerals, Bureau of Land Management, Casper Field Office, Casper, Wyoming

From:  Brian T. Kelly, Field Supervisor, U.S. Fish and Wildlife Service, Wyoming Field Office, Cheyenne, Wyoming 

Subject: Concurrence for the Five South Powder River Basin Coal Lease By Application Tracts (North Antelope/Rochelle North, North Antelope/Rochelle South, Little Thunder, West Roundup, and West Antelope)

Thank you for your letter and attached biological assessments for the North Antelope/Rochelle North and North Antelope/Rochelle South, Little Thunder, West Roundup, and West Antelope Lease-By-Application (LBA) tracts, dated December 31, 2003, received in the Wyoming Field Office on January 2, 2004. In your letter you requested the U.S. Fish and Wildlife Service (Service) review the four biological assessments and provide written concurrence pursuant to section 7(a)(2) of the Endangered Species Act of 1973 (Act), as amended (50 CFR §402.13).

The Bureau of Land Management (Bureau) has made "no effect" determinations for the black-footed ferret (*Mustela nigripes*). When the Bureau makes a "no effect" determination, concurrence from the Service is not required, although, we do appreciate receiving a copy of the data used to make that determination for our records.

The Bureau has determined that the leasing of the five LBA tracts is not likely to jeopardize the continued existence of the mountain plover (*Charadrius montanus*). The Service has withdrawn the proposal to list the mountain plover and we will no longer be reviewing project impacts to this species under the Act. We do however, encourage the Bureau and their applicants to continue providing protection for this species as it remains protected under the Migratory Bird Treaty Act (16 U.S.C. 703) and as a sensitive species under Bureau policy (Bureau Manual 6840.06 E. Sensitive Species). Measures to protect the mountain plover from further decline may include (1) avoidance of suitable habitat during the plover nesting season (April 10 through July 10), (2) prohibition of ground disturbing activities in prairie dog towns, and (3) prohibition of any permanent above ground structures that may provide perches for avian predators or deter

plovers from using preferred habitat. Suitable habitat for nesting mountain plovers includes grasslands, mixed grassland areas and short-grass prairie, shrub-steppe, plains, alkali flats, agricultural lands, cultivated lands, sod farms, and prairie dog towns

Based on the information provided in the four biological assessments (North Antelope/Rochelle North and North Antelope/Rochelle South, Little Thunder, West Roundup, and West Antelope) the Service concurs with the Bureau's determination that leasing the five LBA tracts may affect, but is not likely to adversely affect the bald eagle (*Haliaeetus leucocephalus*) or the Ute ladies'-tresses orchid (*Spiranthes diluvialis*). Annual surveys of the existing mine permit areas and a 1 mile buffer and surveys of the proposed LBA tracts have shown that there are no nesting bald eagles or winter roost sites within these LBA tracts. Multiple year surveys of suitable habitat within the North Antelope/Rochelle North and North Antelope/Rochelle South, Little Thunder, West Roundup and West Antelope LBA tracts have failed to find evidence of Ute ladies'-tresses orchid. Additionally, suitable habitat along the Antelope Creek valley on the West Antelope LBA tract would not be disturbed by mining on this tract.

This concludes informal consultation pursuant to the regulations implementing the Act. These projects should be re-analyzed if new information reveals effects of the action that may affect listed or proposed species or designated or proposed critical habitat in a manner or to an extent not considered in this consultation; if the action is subsequently modified in a manner that causes an effect to a listed or proposed species or designated or proposed critical habitat that was not considered in this consultation; and/or, if a new species is listed or critical habitat is designated that may be affected by these projects.

If you have any questions regarding this letter or your responsibilities under the Act, please contact Bradley Rogers of my staff at the letterhead address or phone (307) 772-2374, extension 25.

cc: BLM-State Office, Multi-Resources Chief, Cheyenne, WY (M. Griffith)
FWS, Federal Activities Specialist, Denver, CO (R. Dach)
WGFD, Statewide Habitat Protection Coordinator, Cheyenne, WY (T. Collins)
WGFD, Non-Game Coordinator, Lander, WY (B. Oakleaf)

ATTACHMENT 5:

SUMMARY OF COMMENTS RECEIVED ON THE FINAL SOUTH POWDER RIVER BASIN COAL ENVIRONMENTAL IMPACT STATEMENT

**ATTACHMENT 5
FINAL SOUTH POWDER RIVER BASIN COAL EIS
COMMENT SUMMARY**

Comment Number Agency, Organization, or Individual	Commenter Issues or Concerns
FEIS-1: Wendell Funk Palmyra, IL	Research area is needed. Mining destroys landscape and results in consumption of coal resources. Energy conservation should be used to meet energy needs. Income to State and Federal governments is not significant. Fossil fuel consumption is causing climatic changes.
FEIS-2: Converse County Commissioners Office Douglas, WY	Converse County Commissioners support the continued offering of Federal coal leases and positive and proactive land management; they request that BLM provide rationale in decision documents for any decisions to reduce the size of proposed lease tracts.
FEIS-3: Converse Area New Development Organization (CANDO) Douglas, WY	CANDO supports: - Federal coal leasing in the Powder River Basin, - proper land and resource management, and - maximizing lease size & tonnage.
FEIS-4: Representative Fred Parady Rock Springs WY	Federal coal leasing in the Powder River Basin over the past decade has produced revenue streams which have been invested in infrastructure needed to educate youth and build communities. Leasing Federal coal tracts is crucial to future of coal mining operations and education and infrastructure for the State of Wyoming.
FEIS-5: Wyoming Department of Education Superintendent Trent Blankenship Cheyenne, WY	The Wyoming Department of Education supports leasing five tracts of Federal coal in the southern Powder River Basin. Past coal bonus bids have helped the State address K-12 capital construction needs and are important in addressing future K-12 capital construction needs.

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FINAL SOUTH POWDER RIVER BASIN COAL EIS
COMMENT SUMMARY**

Comment Number Agency, Organization, or Individual	Commenter Issues or Concerns
FEIS-6 Office of State Lands and Investments Director Lynne Boomgaarden Cheyenne, WY	The Proposed Action of leasing the Federal coal tracts will not have a significant direct impact on the natural resource values under the jurisdiction of the Office of State Lands and Investments. The Office of State Lands and Investments does not have specific concerns if access to State lands is not restricted and State is not precluded from developing its interests in area.
FEIS-7 Powder River Coal Company Ian Craig, President Gillette, WY	Powder River Coal Company provides information to clarify: - the status of conflict negotiations with conventional oil and gas well operator Tindall Operating Company and - the status of wetland inventories on portions of the NARO South LBA Tract.
FEIS-8 M&K Oil Company Jim McLeland, President Gillette, WY	M&K Oil Company Identifies: - the presence of a conventional oil and gas well owned and operated by M&K within the proposed West Roundup LBA Tract and - the need for mine-through agreement with coal lessee.
FEIS-9 Maxim Drilling and Exploration John C. Corkery, President Gillette, WY	Maxim Drilling and Exploration Identifies the need to relocate gas gathering pipeline operated by Kinder Morgan on Little Thunder LBA Tract in order to avoid disruption of gas gathering service to a Maxim gas well.
FEIS-10 Maxim Drilling and Exploration John C. Corkery, President Gillette, WY	Maxim Drilling and Exploration identifies the need to relocate gas gathering pipeline operated by Kinder Morgan on West Antelope LBA Tract in order to avoid disruption of gas gathering service to Maxim gas wells.
FEIS-11 Wyoming Game and Fish Dept. Bill Wichers Cheyenne, WY	Wyoming Game and Fish Department has concerns about: - disruption of ambient habitat conditions for native aquatic species if flows in ephemeral streams increase as a result of CBM discharge, - lack of data on aquatic species, and - the need to include aquatic and wetland species monitoring in annual mine wildlife surveys.

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FINAL SOUTH POWDER RIVER BASIN COAL EIS
COMMENT SUMMARY**

Comment Number Agency, Organization, or Individual	Commenter Issues or Concerns
FEIS-12 Dept. of the Army/Corps of Engineers Chandler Peter Cheyenne, WY	The Army Corps of Engineers provides information correcting their comments on Draft EIS pertaining to status of wetland determinations on NARO South LBA Tract.
FEIS-13 Honorable Dave Freudenthal Governor of Wyoming Cheyenne, WY	Governor Freudenthal supports leasing five tracts of Federal coal in the Powder River Basin and expresses confidence in the ability of the Wyoming Department of Environmental Quality's ability to both ensure regulatory compliance in permitting coal mining in the Powder River Basin and maintain cooperative relationships with Federal agencies and coal-mining companies. Wyoming's has a successful history in developing coal resources and protecting the environment. Federal coal is important to Local and State economies and the national power supply.
FEIS-14 Campbell County Commissioners Gillette, WY	The Campbell County Commissioners support leasing Federal coal in the Powder River Basin. Mining is important to employment and economy in the County and State. The existing cooperative working relationship between the County, coal mining operators and CBM producers is critical to the county and the industry.
FEIS-15 Kennecott Energy Patricia Britton, Vice President, Law & Government Affairs Gillette, WY	Kennecott Energy supports the selection of Final EIS Alternative 3 for the Little Thunder LBA Tract, which would result in splitting the tract and offering two tracts for lease.

ATTACHMENT 5
FINAL SOUTH POWDER RIVER BASIN COAL EIS
COMMENT SUMMARY

<p style="text-align: center;">Comment Number Agency, Organization, or Individual</p>	<p style="text-align: center;">Commenter Issues or Concerns</p>
<p>FEIS-16 Ducker, Montgomery, Lewis, & Aronstein, P.C. James K. Aronstein Denver, CO</p>	<p>Surface coal mining within the West Roundup LBA Tract would cause destruction of the CBM reservoir and venting, drainage, and waste of the CBM reserve on and around the tract.</p> <p>Leasing the Federal coal in the West Roundup LBA Tract will impact the rights of the senior oil and gas lessee.</p> <p>There are legal authorities establishing rights of senior oil and gas lessee.</p> <p>BLM must comply with the applicable land use plans.</p> <p>Methane is a greenhouse gas which contributes to global warming when it is vented.</p> <p>CBM is a clean burning fuel which should be utilized to meet society's energy needs instead of being vented.</p>
<p>FEIS-17 Office of the State Treasurer State of Wyoming Cynthia Lummis, State Treasurer Cheyenne, WY</p>	<p>The State Treasurer supports leasing Federal coal in the Powder River Basin.</p> <p>Coal mining is important as a source of primary and secondary jobs in the State and revenue for K-12 capital construction, community colleges, cities, and counties.</p> <p>Severance taxes generated when coal is mined are invested in Wyoming's Permanent Mineral Trust Fund.</p>
<p>FEIS-18 Powder River Basin Resource Council Gillian Malone Sheridan, WY</p>	<p>Powder River Basin Resource Council is concerned about:</p> <ul style="list-style-type: none"> - Cumulative impact of CBM development and coal mining on groundwater quantity and quality, surface water quantity and quality, air quality, - Adverse health effects of NO_x from coal mine blasting on infants, the elderly, and other sensitive members of the population, - Effects of drought on revegetation efforts and potential for invasion of noxious weeds, - Impact of mining activity on sage grouse, and - Cumulative impact of increased employment on housing availability in Gillette.

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COMMENT SUMMARY**

Comment Number Agency, Organization, or Individual	Commenter Issues or Concerns
FEIS-19 Environmental Protection Agency Region 8 Larry Svoboda Denver, CO	EPA is concerned with: - Air quality degradation in the Powder River Basin, including exceedances of PM ₁₀ 24-hour standard at several mines and predicted cumulative near field impacts over the level of the PSD Class II increments for PM ₁₀ and NO ₂ and - The level and types of mitigation that should be implemented to reduce air quality impacts.
FEIS-20 Wyoming State Historic Preservation Office Richard L. Currit Cheyenne, WY	National Register of Historic Places consultation must be completed prior to approval of the Mineral Leasing Act Mining Plan.
FEIS-21 Tindall Operating Company R. Lee Tucker Englewood, CO	Tindall Operating Company withdraws objections to the NARO North Coal Lease Application following resolution of issues between relevant parties.